



Montana Legislative History

Chapter: 299 Session L: 2005

Bill Number: 185 Senate

Checklist of Bill History

History and Final Status Sheet ☒

Introduced Bill ☒

Fiscal Note ☒

Third Reading Bill ☐

Final Version of Bill ☐

House

Committee: Local Government

Hearing Date(s): 3/10/2005

Committee Report: 3/15/2005 & 3/17/2005

Senate

Committee: Local Government

Hearing Date(s): 1/25/2005

Committee Report: 2/11/2005

Conference Committee

Hearing Date(s):

Conference Committee Report:

Compiler Notes

Compiled by:

SK Marshall

Date: 03/07/2024

Notes:

Bill Draft Number: LC1211**Bill Type - Number:** SB 185**Short Title:** Revise and clarify laws on impact fees**Primary Sponsor:** Jeff Mangan (D) SD 12**Chapter Number:** 299**Bill Actions - Current Bill Progress:** Became Law**Bill Action Count:** 54

Action - Most Recent First	Date	Votes Yes	Votes No	Committee
Chapter Number Assigned	04/20/2005			
(S) Signed by Governor	04/19/2005			
(S) Transmitted to Governor	04/14/2005			
(H) Signed by Speaker	04/14/2005			
(S) Signed by President	04/14/2005			
(C) Printed - New Version Available	04/12/2005			
(S) Returned from Enrolling	04/12/2005			
(S) Sent to Enrolling	04/11/2005			
(H) Returned to Senate	04/09/2005			
(H) 3rd Reading Concurred	04/09/2005	84	15	
(H) Scheduled for 3rd Reading	04/09/2005			
(H) 2nd Reading Concurred	04/08/2005	82	17	
(H) Scheduled for 2nd Reading	04/08/2005			
(H) Scheduled for 2nd Reading	04/07/2005			
(H) Committee Report--Bill Concurred	03/17/2005			(H) Local Government
(H) Committee Executive Action--Bill Concurred	03/16/2005	17	1	(H) Local Government
(H) Hearing	03/10/2005			(H) Local Government
(H) Referred to Committee	02/22/2005			(H) Local Government
(H) First Reading	02/22/2005			
(S) Transmitted to House	02/16/2005			
(S) 3rd Reading Passed	02/16/2005	36	14	
(S) Revised Fiscal Note Printed	02/16/2005			
(S) Scheduled for 3rd Reading	02/16/2005			
(C) Printed - New Version Available	02/15/2005			
(S) 2nd Reading Passed as Amended	02/15/2005	39	11	
(S) 2nd Reading Motion to Amend Carried on Voice Vote	02/15/2005	50	0	
(S) Revised Fiscal Note Received	02/15/2005			
(S) Scheduled for 2nd Reading	02/15/2005			
(S) Scheduled for 2nd Reading	02/14/2005			
(S) Revised Fiscal Note Requested	02/12/2005			
(C) Printed - New Version Available	02/11/2005			
(S) Committee Report--Bill Passed as Amended	02/11/2005			(S) Local Government
(S) Committee Executive Action--Bill Passed as Amended	02/11/2005	11	0	(S) Local Government
(S) Sponsor List Modified	02/09/2005	50	0	
(S) Hearing	01/25/2005			(S) Local Government
(S) Fiscal Note Printed	01/14/2005			
(S) Fiscal Note Signed	01/13/2005			
(S) Fiscal Note Received	01/13/2005			
(C) Introduced Bill Text Available Electronically	01/07/2005			
(S) Referred to Committee	01/07/2005			(S) Local Government
(S) First Reading	01/07/2005			
(S) Fiscal Note Requested	01/07/2005			
(S) Introduced	01/07/2005			

(C) Draft Delivered to Requester	01/06/2005
(C) Draft Ready for Delivery	01/06/2005
(C) Draft in Assembly/Executive Director Review	01/05/2005
(C) Draft in Final Drafter Review	01/04/2005
(C) Bill Draft Text Available Electronically	01/04/2005
(C) Draft in Input/Proofing	01/04/2005
(C) Draft to Drafter - Edit Review [JLN]	01/04/2005
(C) Draft in Edit	01/04/2005
(C) Draft in Legal Review	01/03/2005
(C) Draft to Requester for Review	12/28/2004
(C) Draft Request Received	11/22/2004

Sponsor, etc.

Sponsor, etc.	Last Name/Organization	First Name Mi
Requester	Mangan	Jeff
Drafter	Petesch	Greg
Primary Sponsor	Mangan	Jeff

Subjects

Description	Revenue/Approp.	Vote Majority Req.	Subject Code
Local Finance (see also: City Finance; County Finance)		Simple	LGF
Property		Simple	PROP
Revenue, Local	Revenue	Simple	REVL

Additional Bill Information

Fiscal Note Probable: Yes

Preintroduction Required: N

Session Law Ch. Number: 299

DEADLINE

Category: Revenue Bills

Transmittal Date: 04/04/2005

Return (with 2nd house amendments) Date: 04/16/2005

Section Effective Dates

Section(s)	Effective Date	Date Qualified
All Sections	19-APR-05	



AN ACT AUTHORIZING COUNTIES, CITIES, TOWNS, AND CONSOLIDATED LOCAL GOVERNMENTS TO IMPOSE IMPACT FEES UPON NEW DEVELOPMENT TO FUND ALL OR A PORTION OF THE PUBLIC FACILITY CAPITAL IMPROVEMENTS AFFECTED BY THE NEW DEVELOPMENT; PROVIDING DEFINITIONS; PROVIDING A METHOD FOR CALCULATING, IMPOSING, AND COLLECTING IMPACT FEES; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Definitions. As used in [sections 1 through 4], the following definitions apply:

(1) (a) "Capital improvements" means improvements, land, and equipment with a useful life of 10 years or more that increase or improve the service capacity of a public facility.

(b) The term does not include consumable supplies.

(2) "Connection charge" means the actual cost of connecting a property to a public utility system and is limited to the labor, materials, and overhead involved in making connections and installing meters.

(3) "Development" means construction, renovation, or installation of a building or structure, a change in use of a building or structure, or a change in the use of land when the construction, installation, or other action creates additional demand for public facilities.

(4) "Governmental entity" means a county, city, town, or consolidated government.

(5) (a) "Impact fee" means any charge imposed upon development by a governmental entity as part of the development approval process to fund the additional service capacity required by the development from which it is collected. An impact fee may include a fee for the administration of the impact fee not to exceed 5% of the total impact fee collected.

(b) The term does not include:

(i) a charge or fee to pay for administration, plan review, or inspection costs associated with a permit required for development;

(ii) a connection charge;

(iii) any other fee authorized by law, including but not limited to user fees, special improvement district assessments, fees authorized under Title 7 for county, municipal, and consolidated government sewer and water

districts and systems, and costs of ongoing maintenance; or

(iv) onsite or offsite improvements necessary for new development to meet the safety, level of service, and other minimum development standards that have been adopted by the governmental entity.

(6) "Proportionate share" means that portion of the cost of capital system improvements that reasonably relates to the service demands and needs of the project. A proportionate share must take into account the limitations provided in [section 2].

(7) "Public facilities" means:

- (a) a water supply production, treatment, storage, or distribution facility;
- (b) a wastewater collection, treatment, or disposal facility;
- (c) a transportation facility, including roads, streets, bridges, rights-of-way, traffic signals, and landscaping;
- (d) a storm water collection, retention, detention, treatment, or disposal facility or a flood control facility;
- (e) a police, emergency medical rescue, or fire protection facility; and
- (f) other facilities for which documentation is prepared as provided in [section 2] that have been approved as part of an impact fee ordinance or resolution by:
 - (i) a two-thirds majority of the governing body of an incorporated city, town, or consolidated local government; or
 - (ii) a unanimous vote of the board of county commissioners of a county government.

Section 2. Calculation of impact fees -- documentation required -- ordinance or resolution -- requirements for impact fees. (1) For each public facility for which an impact fee is imposed, the governmental entity shall prepare and approve documentation that:

- (a) describes existing conditions of the facility;
- (b) establishes level of service standards;
- (c) forecasts future additional needs for service for a defined period of time;
- (d) identifies capital improvements necessary to meet future needs for service;
- (e) identifies those capital improvements needed for continued operation and maintenance of the facility;
- (f) makes a determination whether one service area or more than one service area is necessary to establish a correlation between impact fees and benefits;
- (g) makes a determination whether one service area or more than one service area for transportation

facilities is needed to establish a correlation between impact fees and benefits;

(h) establishes the methodology and time period over which the governmental entity will assign the proportionate share of capital costs for expansion of the facility to provide service to new development within each service area;

(i) establishes the methodology that the governmental entity will use to exclude operations and maintenance costs and correction of existing deficiencies from the impact fee;

(j) establishes the amount of the impact fee that will be imposed for each unit of increased service demand; and

(k) has a component of the budget of the governmental entity that:

(i) schedules construction of public facility capital improvements to serve projected growth;

(ii) projects costs of the capital improvements;

(iii) allocates collected impact fees for construction of the capital improvements; and

(iv) covers at least a 5-year period and is reviewed and updated at least every 2 years.

(2) The data sources and methodology supporting adoption and calculation of an impact fee must be available to the public upon request.

(3) The amount of each impact fee imposed must be based upon the actual cost of public facility expansion or improvements, or reasonable estimates of the cost, to be incurred by the governmental entity as a result of new development. The calculation of each impact fee must be in accordance with generally accepted accounting principles.

(4) The ordinance or resolution adopting the impact fee must include a time schedule for periodically updating the documentation required under subsection (1).

(5) An impact fee must meet the following requirements:

(a) The amount of the impact fee must be reasonably related to and reasonably attributable to the development's share of the cost of infrastructure improvements made necessary by the new development.

(b) The impact fees imposed may not exceed a proportionate share of the costs incurred or to be incurred by the governmental entity in accommodating the development. The following factors must be considered in determining a proportionate share of public facilities capital improvements costs:

(i) the need for public facilities capital improvements required to serve new development; and

(ii) consideration of payments for system improvements reasonably anticipated to be made by or as a result of the development in the form of user fees, debt service payments, taxes, and other available sources of

funding the system improvements.

(c) Costs for correction of existing deficiencies in a public facility may not be included in the impact fee.

(d) New development may not be held to a higher level of service than existing users unless there is a mechanism in place for the existing users to make improvements to the existing system to match the higher level of service.

(e) Impact fees may not include expenses for operations and maintenance of the facility.

Section 3. Collection and expenditure of impact fees -- refunds or credits -- mechanism for appeal required. (1) The collection and expenditure of impact fees must comply with [sections 1 through 4]. The collection and expenditure of impact fees must be reasonably related to the benefits accruing to the development paying the impact fees. The ordinance or resolution adopted by the governmental entity must include the following requirements:

(a) Upon collection, impact fees must be deposited in a special proprietary fund, which must be invested with all interest accruing to the fund.

(b) A governmental entity may impose impact fees on behalf of local districts.

(c) If the impact fees are not collected or spent in accordance with the impact fee ordinance or resolution or in accordance with [section 2], any impact fees that were collected must be refunded to the person who owned the property at the time that the refund was due.

(2) All impact fees imposed pursuant to the authority granted in [sections 1 through 4] must be paid no earlier than the date of issuance of a building permit if a building permit is required for the development or no earlier than the time of wastewater or water service connection or well or septic permitting.

(3) A governmental entity may recoup costs of excess capacity in existing capital facilities, when the excess capacity has been provided in anticipation of the needs of new development, by requiring impact fees for that portion of the facilities constructed for future users. The need to recoup costs for excess capacity must have been documented pursuant to [section 2] in a manner that demonstrates the need for the excess capacity. [Sections 1 through 4] do not prevent a governmental entity from continuing to assess an impact fee that recoups costs for excess capacity in an existing facility. The impact fees imposed to recoup the costs to provide the excess capacity must be based on the governmental entity's actual cost of acquiring, constructing, or upgrading the facility and must be no more than a proportionate share of the costs to provide the excess capacity.

(4) Governmental entities may accept the dedication of land or the construction of public facilities in lieu

of payment of impact fees if:

- (a) the need for the dedication or construction is clearly documented pursuant to [section 2];
 - (b) the land proposed for dedication for the public facilities to be constructed is determined to be appropriate for the proposed use by the governmental entity;
 - (c) formulas or procedures for determining the worth of proposed dedications or constructions are established as part of the impact fee ordinance or resolution; and
 - (d) a means to establish credits against future impact fee revenue has been created as part of the adopting ordinance or resolution if the dedication of land or construction of public facilities is of worth in excess of the impact fee due from an individual development.
- (5) Impact fees may not be imposed for remodeling, rehabilitation, or other improvements to an existing structure, or rebuilding a damaged structure, unless there is an increase in units that increase service demand as described in [section 2 (1)(j)]. If impact fees are imposed for remodeling, rehabilitation, or other improvements to an existing structure or use, only the net increase between the old and new demand may be imposed.
- (6) [Sections 1 through 4] do not prevent a governmental entity from granting refunds or credits:
- (i) that it considers appropriate and that are consistent with the provisions of [section 2] and this chapter;
- or
- (ii) in accordance with a voluntary agreement, consistent with the provisions of [section 2] and this chapter, between the governmental entity and the individual or entity being assessed the impact fees.
- (7) An impact fee represents a fee for service payable by all users creating additional demand on the facility.
- (8) An impact fee ordinance or resolution must include a mechanism whereby a person charged an impact fee may appeal the charge if the person believes an error has been made.

Section 4. Impact fee advisory committee. (1) A governmental entity that intends to propose an impact fee ordinance or resolution shall establish an impact fee advisory committee.

(2) An impact fee advisory committee must include at least one representative of the development community and one certified public accountant. The committee shall review and monitor the process of calculating, assessing, and spending impact fees.

(3) The impact fee advisory committee shall serve in an advisory capacity to the governing body of the governmental entity.

Section 5. Transition. A general powers local government that is imposing impact fees adopted on or before [the effective date of this act] shall bring those fees into compliance with [this act] by October 1, 2006.

Section 6. Codification instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 7, chapter 6, and the provisions of Title 7, chapter 6, apply to [sections 1 through 4].

Section 7. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 8. Effective date. [This act] is effective on passage and approval.

Section 9. Applicability. (1) [This act] applies only to the portion of an impact fee ordinance or resolution enacted or amended by a self-governing local government on or after [the effective date of this act].

(2) Except when an impact fee ordinance or resolution is amended as provided in subsection (1), nothing in [this act] may be construed to affect any portion of an ordinance or resolution enacted prior to [the effective date of this act].

- END -

I hereby certify that the within bill,
SB 0185, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2019.

Speaker of the House

Signed this _____ day
of _____, 2019.

SENATE BILL NO. 185
INTRODUCED BY MANGAN, LAIBLE

AN ACT AUTHORIZING COUNTIES, CITIES, TOWNS, AND CONSOLIDATED LOCAL GOVERNMENTS TO IMPOSE IMPACT FEES UPON NEW DEVELOPMENT TO FUND ALL OR A PORTION OF THE PUBLIC FACILITY CAPITAL IMPROVEMENTS AFFECTED BY THE NEW DEVELOPMENT; PROVIDING DEFINITIONS; PROVIDING A METHOD FOR CALCULATING, IMPOSING, AND COLLECTING IMPACT FEES; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

SENATE BILL NO. 185
INTRODUCED BY J. MANGAN

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING COUNTIES, CITIES, TOWNS, AND CONSOLIDATED LOCAL GOVERNMENTS TO IMPOSE IMPACT FEES UPON NEW DEVELOPMENT TO FUND ALL OR A PORTION OF THE PUBLIC FACILITY CAPITAL IMPROVEMENTS AFFECTED BY THE NEW DEVELOPMENT; PROVIDING DEFINITIONS; PROVIDING A METHOD FOR CALCULATING, IMPOSING, AND COLLECTING IMPACT FEES; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Definitions.** As used in [sections 1 through 3], unless the context requires otherwise, the following definitions apply:

(1) "Capital improvement program" means that component of a budget of a governmental entity that sets out the need for public facility capital improvements, the costs of the capital improvements, and proposed funding sources. A capital improvement program must cover at least a 5-year period and must be reviewed at least every 5 years.

(2) "Capital improvements" means improvements with a useful life of 10 years or more, which increase or improve the service capacity of a public facility.

(3) "Governmental entity" means a county, city, town, or consolidated government.

(4) "Impact fee" means the charge imposed upon new development by a governmental entity to fund all or a portion of the public facility's capital improvements affected by the new development from which it is collected.

(5) "Proportionate share" means that portion of the cost of system improvements that reasonably relates to the service demands and needs of the project.

(6) "Public facilities" means:

- (a) water supply production, treatment, storage, and distribution facilities;
- (b) sewer, wastewater, and solid waste collection, treatment, and disposal facilities;
- (c) roads, streets, and bridges, including rights-of-way, traffic signals, landscaping, and local components of state and federal highways;
- (d) storm water collection, retention, detention, treatment, and disposal facilities, flood control facilities,

bank and shore projections, and enhancement improvements;

- (e) parks, open space areas, and recreation facilities;
- (f) police, emergency medical, rescue, and fire protection facilities; and
- (g) other facilities consistent with a community's capital improvement program.

NEW SECTION. Section 2. Calculation of impact fees. (1) The governmental entity considering the adoption of impact fees shall conduct a needs assessment for the type of public facility or public facilities for which impact fees are to be levied. The needs assessment must identify levels of service standards and projected public facilities capital improvements needs and must distinguish existing needs and deficiencies from future needs. The findings of this document must be adopted by the governmental entity.

(2) The data sources and methodology upon which needs assessments and impact fees are based must be made available to the public upon request.

(3) The amount of each impact fee imposed must be based upon the actual cost of public facility expansion or improvements, or reasonable estimates of the cost, to be incurred by the governmental entity as a result of new development. The calculation of each impact fee must be in accordance with generally accepted accounting principles.

(4) An impact fee must meet the following requirements:

(a) The amount of the impact fee must be reasonably related to or reasonably attributable to the development's share of the cost of infrastructure improvements made necessary by the development.

(b) The impact fees imposed may not exceed a proportionate share of the costs incurred or to be incurred by the governmental entity in accommodating the development. The following factors must be considered in determining a proportionate share of public facilities capital improvements costs:

(i) the need for public facilities capital improvements required to serve new development, based on a capital improvements program that shows deficiencies in capital facilities serving existing development and the means, other than impact fees, by which any existing deficiencies will be eliminated within a reasonable period of time and that shows additional demands anticipated to be placed on specified capital facilities by new development; and

(ii) the extent to which new development is required to contribute to the cost of system improvements in the future.

NEW SECTION. Section 3. Collection and expenditure of impact fees. (1) The collection and

expenditure of impact fees must be reasonably related to the benefits accruing to the development paying the impact fees. The ordinance or resolution adopted by the governmental entity may consider the following requirements:

(a) Upon collection, impact fees must be deposited in a special proprietary fund, which must be invested with all interest accruing to the fund.

(b) Within 8 years of the date of collection, impact fees must be expended or encumbered for the construction of public facilities capital improvements of reasonable benefit to the development paying the impact fees and that are consistent with the capital improvement program.

(c) When the expenditure or encumbrance of impact fees is not feasible within 8 years, the governmental entity may retain impact fees for a longer period of time if there are compelling reasons for the longer period. Impact fees may not be retained longer than 12 years.

(2) All impact fees imposed pursuant to the authority granted in [sections 1 through 3] must be assessed upon the issuance of a building permit or other appropriate permission to proceed with development and collected in full upon the issuance of a certificate of occupancy or other final action authorizing the intended use of a structure. [Sections 1 through 3] do not prevent a governmental entity from continuing to assess and collect an impact fee at an earlier time so long as the governmental entity does so pursuant to an ordinance or resolution enacted at least 90 days prior to [the effective date of this act].

(3) A governmental entity may recoup costs of excess capacity in existing capital facilities, when the excess capacity has been provided in anticipation of the needs of new development, by requiring impact fees for that portion of the facilities constructed for future users. The need to recoup costs for excess capacity must have been documented by a preconstruction assessment that demonstrated the need for the excess capacity. [Sections 1 through 3] do not prevent a governmental entity from continuing to assess an impact fee that recoups costs for excess capacity in an existing facility without the preconstruction assessment so long as the impact fee was enacted at least 90 days prior to [the effective date of this act] and is in compliance with [sections 1 through 3] in all other respects. The impact fees imposed to recoup the costs to provide the excess capacity must be based on the governmental entity's actual cost of acquiring, constructing, or upgrading the facility and must be no more than a proportionate share of the costs to provide the excess capacity. That portion of an impact fee based upon recoupment is exempt from the provisions of subsection (1)(b).

(4) Governmental entities may accept the dedication of land or the construction of public facilities in lieu of payment of impact fees if:

(a) the need for the dedication or construction is clearly documented in the community's capital

improvement program or growth policy;

(b) the land proposed for dedication for the public facilities to be constructed is determined to be appropriate for the proposed use by the governmental entity; and

(c) formulas or procedures for determining the worth of proposed dedications or constructions are established.

(5) Impact fees may not be imposed for remodeling, rehabilitation, or other improvements to an existing structure, or rebuilding a damaged structure, unless there is an increase in the number of dwelling units or any other measurable unit for which an impact fee is collected. Impact fees may be imposed when property that is owned or controlled by the federal or state government is converted to private ownership or control.

(6) [Sections 1 through 3] do not prevent a governmental entity from granting any exemption that it considers appropriate.

NEW SECTION. Section 4. Codification instruction. [Sections 1 through 3] are intended to be codified as an integral part of Title 7, chapter 6, and the provisions of Title 7, chapter 6, apply to [sections 1 through 3].

NEW SECTION. Section 5. Effective date. [This act] is effective July 1, 2005.

- END -

SENATE BILL NO. 185
INTRODUCED BY MANGAN, LAIBLE

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING COUNTIES, CITIES, TOWNS, AND CONSOLIDATED LOCAL GOVERNMENTS TO IMPOSE IMPACT FEES UPON NEW DEVELOPMENT TO FUND ALL OR A PORTION OF THE PUBLIC FACILITY CAPITAL IMPROVEMENTS AFFECTED BY THE NEW DEVELOPMENT; PROVIDING DEFINITIONS; PROVIDING A METHOD FOR CALCULATING, IMPOSING, AND COLLECTING IMPACT FEES; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

(Refer to Introduced Bill)

Strike everything after the enacting clause and insert:

NEW SECTION. **Section 1. Definitions.** As used in [sections 1 through 4], the following definitions apply:

(1) (a) "Capital improvements" means improvements, land, and equipment with a useful life of 10 years or more that increase or improve the service capacity of a public facility.

(b) The term does not include consumable supplies.

(2) "Connection charge" means the actual cost of connecting a property to a public utility system and is limited to the labor, materials, and overhead involved in making connections and installing meters.

(3) "Development" means construction, renovation, or installation of a building or structure, a change in use of a building or structure, or a change in the use of land when the construction, installation, or other action creates additional demand for public facilities.

(4) "Governmental entity" means a county, city, town, or consolidated government.

(5) (a) "Impact fee" means any charge imposed upon development by a governmental entity as part of the development approval process to fund the additional service capacity required by the development from which it is collected. An impact fee may include a fee for the administration of the impact fee not to exceed 5% of the total impact fee collected.

(b) The term does not include:

(i) a charge or fee to pay for administration, plan review, or inspection costs associated with a permit

required for development;

(ii) a connection charge;

(iii) any other fee authorized by law, including but not limited to user fees, special improvement district assessments, fees authorized under Title 7 for county, municipal, and consolidated government sewer and water districts and systems, and costs of ongoing maintenance; or

(iv) onsite or offsite improvements necessary for new development to meet the safety, level of service, and other minimum development standards that have been adopted by the governmental entity.

(6) "Proportionate share" means that portion of the cost of capital system improvements that reasonably relates to the service demands and needs of the project. A proportionate share must take into account the limitations provided in [section 2].

(7) "Public facilities" means:

(a) a water supply production, treatment, storage, or distribution facility;

(b) a wastewater collection, treatment, or disposal facility;

(c) a transportation facility, including roads, streets, bridges, rights-of-way, traffic signals, and landscaping;

(d) a storm water collection, retention, detention, treatment, or disposal facility or a flood control facility;

(e) a police, emergency medical rescue, or fire protection facility; and

(f) other facilities for which documentation is prepared as provided in [section 2] that have been approved as part of an impact fee ordinance or resolution by:

(i) a two-thirds majority of the governing body of an incorporated city, town, or consolidated local government; or

(ii) a unanimous vote of the board of county commissioners of a county government.

NEW SECTION. Section 2. Calculation of impact fees -- documentation required -- ordinance or resolution -- requirements for impact fees. (1) For each public facility for which an impact fee is imposed, the governmental entity shall prepare and approve documentation that:

(a) describes existing conditions of the facility;

(b) establishes level of service standards;

(c) forecasts future additional needs for service for a defined period of time;

(d) identifies capital improvements necessary to meet future needs for service;

(e) identifies those capital improvements needed for continued operation and maintenance of the facility;

(f) makes a determination whether one service area or more than one service area is necessary to establish a correlation between impact fees and benefits;

(g) makes a determination whether one service area or more than one service area for transportation facilities is needed to establish a correlation between impact fees and benefits;

(h) establishes the methodology and time period over which the governmental entity will assign the proportionate share of capital costs for expansion of the facility to provide service to new development within each service area;

(i) establishes the methodology that the governmental entity will use to exclude operations and maintenance costs and correction of existing deficiencies from the impact fee;

(j) establishes the amount of the impact fee that will be imposed for each unit of increased service demand; and

(k) has a component of the budget of the governmental entity that:

(i) schedules construction of public facility capital improvements to serve projected growth;

(ii) projects costs of the capital improvements;

(iii) allocates collected impact fees for construction of the capital improvements; and

(iv) covers at least a 5-year period and is reviewed and updated at least every 2 years.

(2) The data sources and methodology supporting adoption and calculation of an impact fee must be available to the public upon request.

(3) The amount of each impact fee imposed must be based upon the actual cost of public facility expansion or improvements, or reasonable estimates of the cost, to be incurred by the governmental entity as a result of new development. The calculation of each impact fee must be in accordance with generally accepted accounting principles.

(4) The ordinance or resolution adopting the impact fee must include a time schedule for periodically updating the documentation required under subsection (1).

(5) An impact fee must meet the following requirements:

(a) The amount of the impact fee must be reasonably related to and reasonably attributable to the development's share of the cost of infrastructure improvements made necessary by the new development.

(b) The impact fees imposed may not exceed a proportionate share of the costs incurred or to be incurred by the governmental entity in accommodating the development. The following factors must be considered in determining a proportionate share of public facilities capital improvements costs:

(i) the need for public facilities capital improvements required to serve new development; and

(ii) consideration of payments for system improvements reasonably anticipated to be made by or as a result of the development in the form of user fees, debt service payments, taxes, and other available sources of funding the system improvements.

(c) Costs for correction of existing deficiencies in a public facility may not be included in the impact fee.

(d) New development may not be held to a higher level of service than existing users unless there is a mechanism in place for the existing users to make improvements to the existing system to match the higher level of service.

(e) Impact fees may not include expenses for operations and maintenance of the facility.

NEW SECTION. Section 3. Collection and expenditure of impact fees -- refunds or credits -- mechanism for appeal required. (1) The collection and expenditure of impact fees must comply with [sections 1 through 4]. The collection and expenditure of impact fees must be reasonably related to the benefits accruing to the development paying the impact fees. The ordinance or resolution adopted by the governmental entity must include the following requirements:

(a) Upon collection, impact fees must be deposited in a special proprietary fund, which must be invested with all interest accruing to the fund.

(b) A governmental entity may impose impact fees on behalf of local districts.

(c) If the impact fees are not collected or spent in accordance with the impact fee ordinance or resolution or in accordance with [section 2], any impact fees that were collected must be refunded to the person who owned the property at the time that the refund was due.

(2) All impact fees imposed pursuant to the authority granted in [sections 1 through 4] must be paid no earlier than the date of issuance of a building permit if a building permit is required for the development or no earlier than the time of wastewater or water service connection or well or septic permitting.

(3) A governmental entity may recoup costs of excess capacity in existing capital facilities, when the excess capacity has been provided in anticipation of the needs of new development, by requiring impact fees for that portion of the facilities constructed for future users. The need to recoup costs for excess capacity must have been documented pursuant to [section 2] in a manner that demonstrates the need for the excess capacity. [Sections 1 through 4] do not prevent a governmental entity from continuing to assess an impact fee that recoups costs for excess capacity in an existing facility. The impact fees imposed to recoup the costs to provide the excess capacity must be based on the governmental entity's actual cost of acquiring, constructing, or upgrading the facility and must be no more than a proportionate share of the costs to provide the excess capacity.

(4) Governmental entities may accept the dedication of land or the construction of public facilities in lieu of payment of impact fees if:

- (a) the need for the dedication or construction is clearly documented pursuant to [section 2];
- (b) the land proposed for dedication for the public facilities to be constructed is determined to be appropriate for the proposed use by the governmental entity;
- (c) formulas or procedures for determining the worth of proposed dedications or constructions are established as part of the impact fee ordinance or resolution; and
- (d) a means to establish credits against future impact fee revenue has been created as part of the adopting ordinance or resolution if the dedication of land or construction of public facilities is of worth in excess of the impact fee due from an individual development.

(5) Impact fees may not be imposed for remodeling, rehabilitation, or other improvements to an existing structure, or rebuilding a damaged structure, unless there is an increase in units that increase service demand as described in [section 2 (1)(j)]. If impact fees are imposed for remodeling, rehabilitation, or other improvements to an existing structure or use, only the net increase between the old and new demand may be imposed.

(6) [Sections 1 through 4] do not prevent a governmental entity from granting refunds or credits:

- (i) that it considers appropriate and that are consistent with the provisions of [section 2] and this chapter; or
- (ii) in accordance with a voluntary agreement, consistent with the provisions of [section 2] and this chapter, between the governmental entity and the individual or entity being assessed the impact fees.

(7) An impact fee represents a fee for service payable by all users creating additional demand on the facility.

(8) An impact fee ordinance or resolution must include a mechanism whereby a person charged an impact fee may appeal the charge if the person believes an error has been made.

NEW SECTION. **Section 4. Impact fee advisory committee.** (1) A governmental entity that intends to propose an impact fee ordinance or resolution shall establish an impact fee advisory committee.

(2) An impact fee advisory committee must include at least one representative of the development community and one certified public accountant. The committee shall review and monitor the process of calculating, assessing, and spending impact fees.

(3) The impact fee advisory committee shall serve in an advisory capacity to the governing body of the governmental entity.

NEW SECTION. **Section 5. Transition.** A general powers local government that is imposing impact fees shall bring the imposition of those fees into compliance with [this act] by October 1, 2006.

NEW SECTION. **Section 6. Codification instruction.** [Sections 1 through 4] are intended to be codified as an integral part of Title 7, chapter 6, and the provisions of Title 7, chapter 6, apply to [sections 1 through 4].

NEW SECTION. **Section 7. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. **Section 8. Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 9. Applicability.** (1) [This act] applies only to an impact fee ordinance or resolution enacted or amended by a self-governing local government on or after [the effective date of this act].

(2) Except when an impact fee ordinance or resolution is amended as provided in subsection (1), nothing in [this act] may be construed to affect an ordinance or resolution enacted prior to [the effective date of this act].

- END -

SENATE BILL NO. 185
INTRODUCED BY MANGAN, LAIBLE

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING COUNTIES, CITIES, TOWNS, AND CONSOLIDATED LOCAL GOVERNMENTS TO IMPOSE IMPACT FEES UPON NEW DEVELOPMENT TO FUND ALL OR A PORTION OF THE PUBLIC FACILITY CAPITAL IMPROVEMENTS AFFECTED BY THE NEW DEVELOPMENT; PROVIDING DEFINITIONS; PROVIDING A METHOD FOR CALCULATING, IMPOSING, AND COLLECTING IMPACT FEES; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

(Refer to Introduced Bill)

Strike everything after the enacting clause and insert:

NEW SECTION. **Section 1. Definitions.** As used in [sections 1 through 4], the following definitions apply:

(1) (a) "Capital improvements" means improvements, land, and equipment with a useful life of 10 years or more that increase or improve the service capacity of a public facility.

(b) The term does not include consumable supplies.

(2) "Connection charge" means the actual cost of connecting a property to a public utility system and is limited to the labor, materials, and overhead involved in making connections and installing meters.

(3) "Development" means construction, renovation, or installation of a building or structure, a change in use of a building or structure, or a change in the use of land when the construction, installation, or other action creates additional demand for public facilities.

(4) "Governmental entity" means a county, city, town, or consolidated government.

(5) (a) "Impact fee" means any charge imposed upon development by a governmental entity as part of the development approval process to fund the additional service capacity required by the development from which it is collected. An impact fee may include a fee for the administration of the impact fee not to exceed 5% of the total impact fee collected.

(b) The term does not include:

(i) a charge or fee to pay for administration, plan review, or inspection costs associated with a permit

required for development;

(ii) a connection charge;

(iii) any other fee authorized by law, including but not limited to user fees, special improvement district assessments, fees authorized under Title 7 for county, municipal, and consolidated government sewer and water districts and systems, and costs of ongoing maintenance; or

(iv) onsite or offsite improvements necessary for new development to meet the safety, level of service, and other minimum development standards that have been adopted by the governmental entity.

(6) "Proportionate share" means that portion of the cost of capital system improvements that reasonably relates to the service demands and needs of the project. A proportionate share must take into account the limitations provided in [section 2].

(7) "Public facilities" means:

(a) a water supply production, treatment, storage, or distribution facility;

(b) a wastewater collection, treatment, or disposal facility;

(c) a transportation facility, including roads, streets, bridges, rights-of-way, traffic signals, and landscaping;

(d) a storm water collection, retention, detention, treatment, or disposal facility or a flood control facility;

(e) a police, emergency medical rescue, or fire protection facility; and

(f) other facilities for which documentation is prepared as provided in [section 2] that have been approved as part of an impact fee ordinance or resolution by:

(i) a two-thirds majority of the governing body of an incorporated city, town, or consolidated local government; or

(ii) a unanimous vote of the board of county commissioners of a county government.

NEW SECTION. Section 2. Calculation of impact fees -- documentation required -- ordinance or resolution -- requirements for impact fees. (1) For each public facility for which an impact fee is imposed, the governmental entity shall prepare and approve documentation that:

(a) describes existing conditions of the facility;

(b) establishes level of service standards;

(c) forecasts future additional needs for service for a defined period of time;

(d) identifies capital improvements necessary to meet future needs for service;

(e) identifies those capital improvements needed for continued operation and maintenance of the facility;

(f) makes a determination whether one service area or more than one service area is necessary to establish a correlation between impact fees and benefits;

(g) makes a determination whether one service area or more than one service area for transportation facilities is needed to establish a correlation between impact fees and benefits;

(h) establishes the methodology and time period over which the governmental entity will assign the proportionate share of capital costs for expansion of the facility to provide service to new development within each service area;

(i) establishes the methodology that the governmental entity will use to exclude operations and maintenance costs and correction of existing deficiencies from the impact fee;

(j) establishes the amount of the impact fee that will be imposed for each unit of increased service demand; and

(k) has a component of the budget of the governmental entity that:

(i) schedules construction of public facility capital improvements to serve projected growth;

(ii) projects costs of the capital improvements;

(iii) allocates collected impact fees for construction of the capital improvements; and

(iv) covers at least a 5-year period and is reviewed and updated at least every 2 years.

(2) The data sources and methodology supporting adoption and calculation of an impact fee must be available to the public upon request.

(3) The amount of each impact fee imposed must be based upon the actual cost of public facility expansion or improvements, or reasonable estimates of the cost, to be incurred by the governmental entity as a result of new development. The calculation of each impact fee must be in accordance with generally accepted accounting principles.

(4) The ordinance or resolution adopting the impact fee must include a time schedule for periodically updating the documentation required under subsection (1).

(5) An impact fee must meet the following requirements:

(a) The amount of the impact fee must be reasonably related to and reasonably attributable to the development's share of the cost of infrastructure improvements made necessary by the new development.

(b) The impact fees imposed may not exceed a proportionate share of the costs incurred or to be incurred by the governmental entity in accommodating the development. The following factors must be considered in determining a proportionate share of public facilities capital improvements costs:

(i) the need for public facilities capital improvements required to serve new development; and

(ii) consideration of payments for system improvements reasonably anticipated to be made by or as a result of the development in the form of user fees, debt service payments, taxes, and other available sources of funding the system improvements.

(c) Costs for correction of existing deficiencies in a public facility may not be included in the impact fee.

(d) New development may not be held to a higher level of service than existing users unless there is a mechanism in place for the existing users to make improvements to the existing system to match the higher level of service.

(e) Impact fees may not include expenses for operations and maintenance of the facility.

NEW SECTION. Section 3. Collection and expenditure of impact fees -- refunds or credits -- mechanism for appeal required. (1) The collection and expenditure of impact fees must comply with [sections 1 through 4]. The collection and expenditure of impact fees must be reasonably related to the benefits accruing to the development paying the impact fees. The ordinance or resolution adopted by the governmental entity must include the following requirements:

(a) Upon collection, impact fees must be deposited in a special proprietary fund, which must be invested with all interest accruing to the fund.

(b) A governmental entity may impose impact fees on behalf of local districts.

(c) If the impact fees are not collected or spent in accordance with the impact fee ordinance or resolution or in accordance with [section 2], any impact fees that were collected must be refunded to the person who owned the property at the time that the refund was due.

(2) All impact fees imposed pursuant to the authority granted in [sections 1 through 4] must be paid no earlier than the date of issuance of a building permit if a building permit is required for the development or no earlier than the time of wastewater or water service connection or well or septic permitting.

(3) A governmental entity may recoup costs of excess capacity in existing capital facilities, when the excess capacity has been provided in anticipation of the needs of new development, by requiring impact fees for that portion of the facilities constructed for future users. The need to recoup costs for excess capacity must have been documented pursuant to [section 2] in a manner that demonstrates the need for the excess capacity. [Sections 1 through 4] do not prevent a governmental entity from continuing to assess an impact fee that recoups costs for excess capacity in an existing facility. The impact fees imposed to recoup the costs to provide the excess capacity must be based on the governmental entity's actual cost of acquiring, constructing, or upgrading the facility and must be no more than a proportionate share of the costs to provide the excess capacity.

(4) Governmental entities may accept the dedication of land or the construction of public facilities in lieu of payment of impact fees if:

- (a) the need for the dedication or construction is clearly documented pursuant to [section 2];
- (b) the land proposed for dedication for the public facilities to be constructed is determined to be appropriate for the proposed use by the governmental entity;
- (c) formulas or procedures for determining the worth of proposed dedications or constructions are established as part of the impact fee ordinance or resolution; and
- (d) a means to establish credits against future impact fee revenue has been created as part of the adopting ordinance or resolution if the dedication of land or construction of public facilities is of worth in excess of the impact fee due from an individual development.

(5) Impact fees may not be imposed for remodeling, rehabilitation, or other improvements to an existing structure, or rebuilding a damaged structure, unless there is an increase in units that increase service demand as described in [section 2 (1)(j)]. If impact fees are imposed for remodeling, rehabilitation, or other improvements to an existing structure or use, only the net increase between the old and new demand may be imposed.

(6) [Sections 1 through 4] do not prevent a governmental entity from granting refunds or credits:

- (i) that it considers appropriate and that are consistent with the provisions of [section 2] and this chapter; or
- (ii) in accordance with a voluntary agreement, consistent with the provisions of [section 2] and this chapter, between the governmental entity and the individual or entity being assessed the impact fees.

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(2) An impact fee advisory committee must include at least one representative of the development community and one certified public accountant. The committee shall review and monitor the process of calculating, assessing, and spending impact fees.

(3) The impact fee advisory committee shall serve in an advisory capacity to the governing body of the governmental entity.

NEW SECTION. Section 5. Transition. A general powers local government that is imposing impact fees ADOPTED ON OR BEFORE [THE EFFECTIVE DATE OF THIS ACT] shall bring ~~the imposition of~~ those fees into compliance with [this act] by October 1, 2006.

NEW SECTION. Section 6. Codification instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 7, chapter 6, and the provisions of Title 7, chapter 6, apply to [sections 1 through 4].

NEW SECTION. Section 7. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. Section 8. Effective date. [This act] is effective on passage and approval.

NEW SECTION. Section 9. Applicability. (1) [This act] applies only to THE PORTION OF an impact fee ordinance or resolution enacted or amended by a self-governing local government on or after [the effective date of this act].

(2) Except when an impact fee ordinance or resolution is amended as provided in subsection (1), nothing in [this act] may be construed to affect ANY PORTION OF an ordinance or resolution enacted prior to [the effective date of this act].

- END -

FISCAL NOTE

Bill #: SB0185

Title: Revise and clarify laws on impact fees

Primary Sponsor: Mangan, J

Status: Second Reading

Sponsor signature	Date	David Ewer, Budget Director	Date
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Fiscal Summary

	<u>FY 2006 Difference</u>	<u>FY 2007 Difference</u>
Expenditures:		
General Fund	\$0	\$0
Revenue:		
General Fund	\$0	\$0
Net Impact on General Fund Balance:	\$0	\$0

- | | |
|---|--|
| ☒ Significant Local Gov. Impact | ☐ Technical Concerns |
| ☐ Included in the Executive Budget | ☐ Significant Long-Term Impacts |
| ☐ Dedicated Revenue Form Attached | ☐ Needs to be included in HB 2 |

Fiscal Analysis

ASSUMPTIONS:

1. The provisions of this bill would allow local governments to impose impact fees on new developments for additional services required.
2. This bill has no state fiscal impact.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The fiscal impact on local governments, as defined in the bill, is undeterminable. The impact is contingent upon the amount and type of development taking place.

MINUTES

**MONTANA SENATE
59th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN JEFF MANGAN**, on January 25, 2005 at 3:00 P.M., in Room 317 Capitol.

ROLL CALL

Members Present:

Sen. Jeff Mangan, Chairman (D)
Sen. John Esp (R)
Sen. Kelly Gebhardt (R)
Sen. Kim Gillan (D)
Sen. Bob Hawks (D)
Sen. Rick Laible (R)
Sen. Lynda Moss (D)
Sen. Jerry O'Neil (R)
Sen. Jim Shockley (R)
Sen. Carolyn Squires (D)
Sen. Mike Wheat (D)

Members Excused: None.

Members Absent: None.

Staff Present: Jennifer Kirby, Committee Secretary
Leanne Kurtz, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 185, 1/11/2005; SB 158,
1/11/2005
Executive Action: None.

SEN. JEFF MANGAN, SD 12, GREAT FALLS, announced that **SEN. MICHAEL WHEAT, SD 32, BOZEMAN**, would chair both hearings. He told the committee that they should have a new schedule. **SEN. MANGAN** informed the committee that they may take executive action after the hearings, dependent on how long the hearing ran. He said that **SEN. SAM KITZENBERG, SD 18, GLASGOW**, would be addressing the committee at the next meeting regarding a tabled bill. **SEN. MANGAN** informed the committee that he had decided to put the local option tax bill (**SB 184**) into a subcommittee. The subcommittee would be chaired by **SEN. WHEAT** and its members would be **SEN. MANGAN** and **SEN. JOHN ESP, SD 31, BIG TIMBER**. **SEN. MANGAN** noted that they would be hearing two competing bill on impact fees and that both **SB 185** and **SB 158** would be put into another subcommittee. That subcommittee would be chaired by **SEN. LYNDIA MOSS, SD 26, BILLINGS** and the other members would be **SEN. KELLY GEBHARDT, SD 23, ROUNDUP**; **SEN. BOB HAWKS, SD 33, BOZEMAN**; **SEN. RICK LAIBLE, SD 44, VICTOR**; and **SEN. KIM GILLAN, SD 24, BILLINGS**.

SEN. MANGAN told the committee that the staff had made comparison sheets on the two competing bills.

SEN. MANGAN passed the gavel to **SEN. WHEAT**.

SEN. WHEAT decided to wait for the comparison sheets to be copied and handed out to the committee.

Leanne Kurtz, Legislative Services, gave the committee members a spreadsheet comparing and contrasting **SB 158** and **SB 185**.

EXHIBIT(los19a01)

HEARING ON SB 185

{Tape: 1; Side: A; Approx. Time Counter: 6.5}

Opening Statement by Sponsor:

SEN. JEFF MANGAN (D), SD 12, opened the hearing on **SB 185**, Revise and clarify laws on impact fees.

{Tape: 1; Side: A; Approx. Time Counter: 6.7 - 12.2}

SEN. MANGAN explained that impact fees were fees that local governments charged to help pay for public facilities and services that allow areas to accommodate new development. He noted that Montana did not have an impact fee statute but some cities charged the fees based on a 1990 Supreme Court decision. **SEN. MANGAN** said that both bills gave cities and counties the

right to charge impact fees but in different ways. He supposed that **SB 185** was supported by local governments and **SB 158** would be backed by builders and contractors. **SEN. MANGAN** referred to the compare/contrast sheet that had been given out and promised to make the sheet available to any interested party. **SEN. MANGAN** argued that impact fees were necessary to the maintenance of fair and equitable government and development. **SEN. MANGAN** noted the major differences in the two bills: including twenty years versus ten years, what facilities and services could local governments charge impact fees for, and whether or not there should be an advisory board. **SEN. MANGAN** felt that **SB 185** and **SB 158** were closer to each other than previous impact fee bills. He expressed his confidence that the subcommittee would strive for consensus and develop an impact fee bill that would work for all parties.

Proponents' Testimony:

{Tape: 1; Side: A; Approx. Time Counter: 12.2 - End of Tape}

{Tape: 1; Side: B; Approx. Time Counter: 2 - 27.4}

Elaine Mann, Broadwater County Commissioner, said that she appreciated the work of both Senators and the committee. She noted that it was difficult for small counties that were staffed by either part-time employees or volunteers. **Ms. Mann** told the committee that the counties around them were growing, as was Broadwater county, and they had concerns about growth. **Ms. Mann** expressed her desire to be fair to the developer but also be fair to the residents and felt that impact fees would work for them. **Ms. Mann** thought that it was important that volunteers start getting paid to handle the coming development.

Harold Blattie, Montana Association of Counties, rose in support of **SB 185**. He committed to work with the subcommittee to get something passed this session. **Mr. Blattie** passed out a letter of support from Gallatin County.

EXHIBIT (los19a02)

Chris Kukulski, Bozeman City Manager, discussed the need for impact fees. He explained that fast-growing communities had to have a way to continue to provide public services with the influx of new people. He noted that to repair and maintain infrastructure, Bozeman alone was looking at a conservative estimate of \$125 million worth of improvements. **Mr. Kukulski** said that he and other elected officials began to push for the cost-causers to be the cost-payers. He told the committee that property owners could not continue to be the sole bearers of the

burden of paying for the needed infrastructure. He commented that the Federal government has ended its practice of appropriating mass amounts of money for infrastructure projects. **Mr. Kukulski** emphasized that Bozeman taxpayers have paid their fair share. He declared that the building industry and the city needed each other to maintain a level of growth. He said that it was not good for either entity when growth is slowed or halted because of a lack of infrastructure. **Mr. Kukulski** gave the examples of Big Sky and Belgrade. **Mr. Kukulski** discussed the opposition's agreement against impact fees. He said they argued that impact fees drive up the cost of housing. **Mr. Kukulski** contended that prices were driven by the market and law of supply and demand, not by impact fees. He noted that in order to build houses, they had to have the infrastructure and impact fees were the only way to earn the money. **Mr. Kukulski** bragged that Bozeman and other cities in Montana were great places to live and that Bozeman had been ranked number one for cities with a population under 100,000 people. **Mr. Kukulski** said that the rankings showed that Montana was doing something right at the local level. He told the committee that Bozeman just approved \$5.7 million to widen Babcock Road, about a one-mile stretch of road and that it was due partially to commercial traffic. **Mr. Kukulski** felt that the cause of the growth should help pay for that infrastructure. He confessed that Bozeman's waterworks needed to be updated in order to deal with the coming growth and that was part of the reason they strongly supported **SB 185**.

Chris Saunders, Impact fee coordinator for the City of Bozeman, called impact fees "a good tool to support growth." **Mr. Saunders** said that impact fees were predictable while the current system was not. Impact fees were also location specific and they take care to not be too restrictive. He noted that impact fees were open to public comment. With impact fees, the public held elected officials accountable for imposing the cost of development on the developers. He asked the committee to watch for artificial standards. **Mr. Saunders** declared that impact fees made several large developments possible in Bozeman.

Alan Towlerton, City of Billings, read his testimony into the record.

EXHIBIT(los19a03)

Joe Mazurek, City of Great Falls, noted that the city did not currently impose impact fees but felt they may have to in the future. **Mr. Mazurek** expressed their preference for **SEN. MANGAN's** bill, **SB 185**, because it was simpler and more concise. He said that the city looked forward to working with the subcommittee to design a bill that would work for everyone.

Raymond Carroll, Bozeman resident and former Chicago City Planner, told the committee that he had downloaded a guide on impact fees off the National Association of Planners website. He then compared the two competing bills with the guide and concluded that **SB 185** was far more in accordance with the American Planning Association's guide. He felt that planners were more likely to do what was best for the general public and so he supported **SB 185**.

Kaarem Jacobson, Private citizen from Bozeman Montana, informed the committee that she had recently retired from her work at Montana State University. **Ms. Jacobson** noted that her retirement check was not extravagant. She expressed concern about the rising property taxes and what they would do to people, especially those on a fixed income. **Ms. Jacobson** asked the committee to make it easier for local governments to assess impact fees. **Ms. Jacobson** urged the committee's support of **SB 185**.

Shirley Powell, Private Citizen from Bozeman, Montana, supported **SB 185**. **Ms. Powell** said that citizens could not afford more property taxes and that impact fees were needed to help citizens. She asked the committee to pass the bill and allow the city to help its property owners and alleviate some of the burden on current residents.

Mike Kadus, Mayor of the city of Missoula, told the committee that last spring Missoula adopted a scaled back version of impact fees. He said it was due to sympathy for the development community. **Mr. Kadus** expressed his concern that local governments could not expand infrastructure without either implementing impact fees or raising taxes. He noted that the state did have a cap on Mills. If Millage reached its cap, without impact fees, there would simply be no more development. **Mr. Kadus** predicted that the committee would hear testimony that impact fees were not needed for parks, recreation, and open space. He disagreed with this idea and felt that they were an essential part of the city's infrastructure. **Mr. Kadus** believed that without parks and recreation and open space, cities could not attract people. **Mr. Kadus** said that the development community was willing to pay for wastewater treatments, public health, and public safety but was unwilling to devote money to parks. **Mr. Kadus** informed the committee that Missoula collects impact fees for all of these things, including parks. **Mr. Kadus** discussed the case law surrounding impact fees and noted that many restrictions were already in case law. He said that the law revolved around two themes: nexus and proportionality. Nexus was the location, the development must have a connection to the fee. Proportionality meant that existing residents must pay for the services that they

receive, new residents should not have to bear the whole burden.

Mr. Kadus maintained that the real dilemma was that if cities do not have revenue streams, like impact fees, they could not continue development or add infrastructure. **Mr. Kadus** hypothesized that the areas that would implement impact fees were big cities and high-growth areas. He felt that it was important that communities have the flexibility and ability to implement impact fees. He said that cities needed impact fees in order to build houses and meet the demand for growth.

Jim Patrick, City of Kalispell, stood in support of **SB 185**. He said that local government was all about fair and equitable treatment for everyone and that impact fees helped that balance. He called impact fees "cost based" and insisted that the fees were necessary to extend infrastructure out to new development.

Mr. Patrick maintained that it was not fair and equitable for long-time residents to pay for the new development. He felt that residents should pay for the running and maintenance of public facilities and that developers should pay for their extension and upgrades. **Mr. Patrick** said that there were ways to make impact fees work for everyone. He commented that it was good that the fees were on the local level and were a local option.

Steve Golnar, City Manager for the city of Livingston, supported **SB 185**. He told the committee that Livingston did not currently charge impact fees but they did have some development fees. He noted that Livingston was growing and that they would see systematic and development concerns in the near future. **Mr. Golnar** said that Livingston did not have self-governing powers and would need **SB 185** to charge impact fees. He reminded the committee that small communities were growing as well as the big communities and would need **SB 185** in the future.

Tim Davis, Montana Smart Growth Coalition, stood in support of **SB 185**. **Mr. Davis** expressed his appreciation to Chairman Mangan for already agreeing to put the two bills into a subcommittee. He said that one bill could be crafted and everyone could meet in the middle. **Mr. Davis** was confident that consensus could be reached on the issue.

Alec Hansen, League of City and Towns, discussed the monetary value of the bill. Without impact fees, residents are stuck with paying for development. With impact fees, developers defray part of the cost. **Mr. Hansen** stressed the importance of balance and working together for a bill that will work for both the residential and development communities. **Mr. Hansen** was very much in favor of a subcommittee working on the bills.

Jennifer Pomnichowski, Bozeman Resident and member of Bozeman Inter-neighborhood council, offered support to **SB 185** on behalf of the neighborhoods. She said that it was important for development to pay its own cost and not just burden residents. **Ms. Pomnichowski** felt that impact fees allow local governments to control their own destinies.

Susan Johnson, Bozeman Small Business Owner, supported **SB 185** on behalf of Bozeman small businesses. She noted that these were small "Mom & Pop" businesses. **Ms. Johnson** said for these businesses to continue, they needed impact fees to reduce the financial burden on small businesses.

Marcia Youngman, Bozeman City Commission, spoke on behalf of **Russ Squire, former President of the South West Business Industry Association** and passed out a guest opinion by **Mr. Squire** from the *Bozeman Daily Chronicle*.

EXHIBIT(los19a04)

Ms. Youngman felt the article helped refute the agreement that impact fees reduce affordable housing. She said that growing communities need impact fees. Impact fees increase supply and, therefore, reduce housing costs. **Ms. Youngman** commented that affordable housing does not happen without help from government, through things like impact fees. **Ms. Youngman** stated that impact fees help, not hurt, affordable housing.

Opponents' Testimony: None.

Informational Testimony:

{Tape: 1; Side: B; Approx. Time Counter: 27.4 - End of Tape}
{Tape: 2; Side: A; Approx. Time Counter: 0.1 - 0.3}

Tim Rirdund, Department of Transportation, expressed some concern over the bill's description of public facilities. He warned the committee to be wary of the inclusion of parts of state and federal roadways in the description of public facilities. **Mr. Rirdund** said that they did not want to have a jurisdictional issue regarding highways and roadways. He informed the committee that current state policy already require developers to complete and pay for a traffic study. The study could result in needing to improve or change existing traffic areas and the developer would be required to pay for any of these improvements associated with their development. He noted that local governments would need to clarify these sections to secure their roadway system. **Mr.**

Rirdund wanted the committee to be aware of possible jurisdictional problems.

Questions from Committee Members and Responses:

{Tape: 2; Side: A; Approx. Time Counter: 0.5 - 2.7}

SEN. KELLY GEBHARDT, SD 23, ROUNDUP asked **Mr. Rirdund** to leave his contact information for the committee. **Mr. Rirdund** agreed to do so.

Closing by Sponsor:

{Tape: 2; Side: A; Approx. Time Counter: 2.7 - 6.4}

SEN. MANGAN expressed his appreciation to the witnesses, especially the community of Bozeman. **SEN. MANGAN** noted that what he liked best about his bill and hoped to preserve was its flexibility and its provisions to assist local governments in managing their growth. **SEN. MANGAN** shared a story about the Great Falls Builders and himself. He attended a party that the builders hosted and was the only Great Falls legislator there. They spent the entire time discussing the two competing impact fee bills. **SEN. MANGAN** sponsored the competing legislation to the builders so he said it made for an interesting time. **SEN. MANGAN** said that the plan, from the beginning, was to send both bills into a subcommittee and get consensus. **SEN. MANGAN** was confident that the subcommittee would produce a bill that worked for everyone.

HEARING ON SB 158

{Tape: 2; Side: A; Approx. Time Counter: 6.4}

Opening Statement by Sponsor:

{Tape: 2; Side: A; Approx. Time Counter: 6.4 - 15.5}

SEN. RICK LAIBLE (R), SD 44, opened the hearing on **SB 158**, Regulate impact fee assessments for development.

SEN. LAIBLE commented on the irony that the competing bill numbers should be 158 and 185. He expressed his desire to work for consensus and said that he felt there was more in the two bills that united them than divided them. **SEN. LAIBLE** noted the major difference between **SB 158** and **SB 185** was that **SB 158** had an oversight committee. He compare the oversight committee to what communities already have in a planning board. **SEN. LAIBLE** said his goal was to grow and prosper for the future and utilize

impact fees to help local communities. **SEN. LAIBLE** stated that it was important that the development that caused the cost should pay a proportional amount to defray the cost. He expressed his commitment to the subcommittee and ensuring that there was a consensus. **SEN. LAIBLE** was confident that with the leadership of **SEN. MANGAN** and the hard work of the subcommittee, they could achieve these goals.

Proponents' Testimony:

{Tape: 2; Side: A; Approx. Time Counter: 15.5 - end of tape}

{Tape: 2; Side: B; Approx. Time Counter: 0.3 - end of tape}

{Tape: 3; Side: A; Approx. Time Counter: 0.1 - 4.6}

Curt Chishom, Montana Building Industry Association, agreed with **SEN. MANGAN** that this session the communities and the developers are closer on impact fees than any time in the past. He noted similarities in the use of nexus and proportionality, and the implementation of a planning guide. **Mr. Chishom** told the committee why the building industry wanted impact fees. He felt that current statutes vary between cities and counties and there was very little predictability in the system. **Mr. Chishom** thought that the impact fee bill would increase fairness and consistency. **Mr. Chishom** insisted that the building industry was willing to pay for the impacts that they create. He noted that, while they were willing to pay their fair share, they did not want impact fees to become just a new source of revenue for local governments that are strapped for funding. He discussed nexus and proportionality and commented that the terms were well-founded in legal statute. **Mr. Chishom** said that impact fees affect housing affordability when they are arbitrary. He stated that fees should be limited to facilities that are absolutely necessary. He named five areas: public water, public sewer, transportation facilities, emergency services, and storm water. **Mr. Chishom** encouraged the committee to limit impact fees to those five areas because the building industry would be passing those costs off to the consumer, many of which were long-term residents of the community or first-time home buyers. He stressed the importance of accountability and fairness.

Michael Kakuk, Montana Association of Realtors, gave the committee a legal memo on the framework of impact fees.

EXHIBIT (los19a05)

Mr. Kakuk called impact fees an "exaction." He said that exactions were legal as long as they met three tests. There must be due process so that the local government must have the

authority to charge an impact fee, **Mr. Kakuk** stated that both bills grant the necessary authority for local governments to charge an impact fee. Second test was equal protection under the law, if one development pays an impact fee then all developments do. He noted that it was guaranteed in both bills. The third test was whether or not it constituted a taking. Impact fees are not takings if they adhere to the nexus. **Mr. Kakuk** explained that a nexus could be both geographical and topographical. The bill needed to insure that the impact fee was connected to the spending of that revenue. He said that the fee would have to be proportional to the impact or it would also constitute a taking. **Mr. Kakuk** agreed with **Mr. Chishom** that nexus and proportionality both had a firm basis in current statute.

Byron Roberts, Montana Building Industry Association, explained the reasons behind their support of **SB 158**. He said that the bill allowed the implementation of impact fees, designated how they would be charged, and gave a standard of fairness for their use. He noted that a number of the local governments in Montana already imposed fees under the self-governing charter but the bill would allow all cities to do it and be consistent. He commented that the developers already pay a number of fees when they subdivide and he thought that the general public was unaware of that. **Mr. Roberts** stated that they had to change the perception of who pays for the infrastructure. **Mr. Roberts** handed out a page on the essential elements of **SB 158**.

EXHIBIT(10s19a06)

Mr. Roberts said one of the important things for the building industry was assurance that the necessary infrastructure would be in place to accommodate development. The fees were needed for critical infrastructure. He declared that libraries and parks were not necessary infrastructure and that was a main reason they preferred **SB 158**. He felt they were already adequately funded through other means. He noted that Montana was a tax-based state. **Mr. Roberts** said that the bill would ensure that there was a finite connection between the fee assessed and the development. **Mr. Roberts** went over his handout. He commented that the housing industry added value to Montana communities. **Mr. Roberts** declared that the building industry was willing to pay its fair share but that the fees needed to be fair and equitable.

Dab Dabney, Farmhouse Partners, supported **SB 158**. **Mr. Dabney** told the committee that he developed restrictive rent and low income housing. He shared a story of one of his developments in Bozeman. **Mr. Dabney** said that two years earlier, he finished the first stage of the project - 46 units. He paid \$187 thousand in impact

fees. **Mr. Dabney** currently had under construction a 46-unit project, the second stage of the complex. He said that the fees were slightly higher, \$191 thousand. The major difference, according to **Mr. Dabney**, was that he was required to pay \$210 thousand in road improvement. He informed the committee that he was forced to charge an extra \$30 a month. That was significant for low income tenants. **Mr. Dabney** said that all costs get passed to the consumers and that there were inequities in the assessment of fees. He asked the committee to add something to the bill to take into account when developers are required to make significant offsite improvements, they could offset some of the impact fees.

Elaine Mann, Broadwater County Commissioner, gave her support for the impact fee bills. She offered the subcommittee any assistance and expertise. **Ms. Mann** brought up the fact that citizens have already done their part to replace schools and jails. She hoped that the citizens and developers could work together to come up with a fair and equitable solution.

Travis Schnicke, Montana Building Industry Association, told the committee that he was a small Business owner and has paid impact fees in Bozeman. **Mr. Schnicke** commented that their desire was to create a fair and equitable system and correct the quagmire of current impact fees. He noted that impact fees were being assessed unfairly and that the city judge had ruled that seventy-five percent of the impact fee assessments were done improperly. **Mr. Schnicke** stated that they were willing to pay their fair share but not more than their fair share.

John Harding, S&H Aluminum Products and Home Builder's Association of Great Falls, applauded **SEN. MANGAN** for his attendance at their building meeting, especially considering that the Senator was sponsoring the opposing legislation to the builders. **Mr. Harding** reviewed why the builders supported impact fees. He wanted to ensure that when impact fees are implemented that they are fair. He noted that they were watching for consistency. **Mr. Harding** wanted the fees to be justified. He felt that they should go towards paying for growth and development.

Chip Pigmann, Hamilton Home Builder, told the committee that most of the homes that he builds are for young families and seniors. He said that he had asked the local government about the fees that he was charged to hook into the current infrastructure and maintained that no one was able to tell him where that money goes. **Mr. Pigmann** stressed that he was looking for predictability and consistency. He noted that builders do not pay the impact

fees, they are merely passed on to the consumer. **Mr. Pigmann's** number one priority was accountability for Montana families.

Jim More, Hamun Construction and Helena Building Industry Association, introduced himself as a laborer. **Mr. More** wanted equitable assessments and affordable housing. **Mr. More** stated that he saw every stage of the process of building for his clients. He said that it was sad when people could not afford to do everything that they wanted with their dream home because they had to pay fees. **Mr. More** declared that he was happy to pay and everyone needed to give their fair share. He called building a noble profession and said that builders were not in the business for the money but because they wanted to be.

Mike Hughes, Mike Hughes Builders, noted that he specialized in homes for first-time buyers. **Mr. Hughes** said that a problem in Helena was the increase in building lot prices. One of the primary reasons that young people were able to afford homes was because of low mortgage rates. He mentioned that his niece was a page in the capital that week and he was afraid that she would be unable to afford a first home if impact fees were not fair and equitable.

SEN. CAROLYN SQUIRES, SD 48, MISSOULA exits.

Don Garramone, Garramone Builders of Missoula and Montana Building Industry Association, said that he had seen a dramatic increase in the regulations and fees involving development in Missoula over the last few years. **Mr. Garramone** declared that the Missoula fees were inequitable and they needed control. He also objected to the double tax in regards to parks. **Mr. Garramone** stated that developers had to set aside land for parks and also pay fees for parks, which he felt was unfair.

Ronald Elliot, Montana Association of Realtors, said that if growth has an impact on an area, the development community was willing to pay for it. **Mr. Elliot** supported **SB 158** over **SB 185** because it prevented local governments from placing a disproportionate burden on the development community. He expressed his hope that differences can be worked out in the subcommittee.

Opponents' Testimony:

{Tape: 3; Side: A; Approx. Time Counter: 4.6 - end of tape}

{Tape: 3; Side: B; Approx. Time Counter: 2.2 - 7.4}

Mike Kadus, Mayor of Missoula, gave the committee a sheet about impact fees in Missoula.

EXHIBIT(los19a07)

Mr. Kadus discussed the charts on the sheet. He opposed **SB 158** because it would eliminate parks and city services and would seriously reduce funding for police and fire services. **Mr. Kadus** talked about the twenty years or more regulation of infrastructure. He said that clause would eliminate rolling stock of equipment, like fire engines, street sweepers, road building equipment, and snow plows. **Mr. Kadus** said that parks and community services would be out of the bill. He discussed the half-mile limit for Nexus in **SB 158**. He told the committee that the clause would have prevented Missoula from charging impact fees for the problem intersection of Reserve Street and Mullan Road. **SB 158** would not allow local governments to collect for traffic congestion problems, like his example. **Mr. Kadus** discussed the mandate that impact fees be determined by a neutral or independent consultant. He felt that the city could learn and employ someone for the job less expensively. **Mr. Kadus** commented on the previous discussion of builders having to pay twice. They pay impact fees on one house, move and then they have to pay fees again. **Mr. Kadus** felt this was fair because the owners would get their impact fee money back in the resale. He said that it also adds value to the property. **Mr. Kadus** discussed housing appreciation. He said that land was becoming more and more valuable. The market laws of supply and demand would work and everyone would benefit from appreciation and impact fees in the long term.

Tim Cooper, Bozeman City Attorney, agreed with **Mr. Kadus** on many points. He warned the subcommittee to be aware of the case law, especially regarding self governing power. **Mr. Cooper** expressed his delight that almost everyone supported impact fees. He opposed **SB 158** because it limits local government authority. He liked the flexibility that **SB 185** provides over **SB 158**. He noted that proportionality was not defined and was actually misleading in **SB 158**. **Mr. Cooper** was most concerned about the loss of Local Government authority in **SB 158**. **Mr. Cooper** said that **SB 185** was better because it provides for the cash system. Currently, if developers did not have water rights or park land, they gave local governments money instead. **Mr. Cooper** was concerned that **SB 158** would destroy the system. He responded to arguments against impact fees. **Mr. Cooper** said that impact fees were an inherent equalizer. He reiterated that the subcommittee needed to be aware and careful with the possible loss of authority. **Mr. Cooper** declared that impact fees worked in Bozeman and now there was a

need for something more. **Mr. Cooper** objected to **SB 158** because it took away more than it gave. **Mr. Cooper** gave an example of playing basketball and playing soccer. He said that **SB 158** is basically like giving someone permission to play basketball while taking away their rights to play any other sport.

Alan Towlerton, City of Billings, read his testimony into the record.

EXHIBIT(los19a08)

Chris Kukulski, City Manager of Bozeman, opposed **SB 158**. He felt that communities of one (one hospital, one police station, one fire station, etc.) would suffer terribly under **SB 158**. He said that the half-mile nexus provision would kill development and bankrupt infrastructure funds. **Mr. Kukulski** responded to the accusations of "sloppy" impact fees in Bozeman. He contended that he knew to the penny what was in each of the infrastructure funds. He declared that the rumor of sloppy administration in Bozeman were false.

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

{Tape: 3; Side: B; Approx. Time Counter: 7.4 - 16}

SEN. LAIBLE refuted **Mr. Kadus's** opposition to the bill. He said that impact fees should have a rational reason to be implemented. He responded to the comments that **SB 158** was taking away local government authority. He noted that the impact fees were set on a facilities plan that the local governments adopted and set. **SEN. LAIBLE** commented that the objection to the neutral party clause was misguided. He said that Missoula had already done an independent study and would not need to do it again. **SB 158** used Generally accepted accounting principles and **SEN. LAIBLE** questioned what other principles would be used. **SEN. LAIBLE** refuted the argument that a half-mile nexus was not enough. He maintained that the bill allowed local governments to assess fees outside of one-half-mile but that they needed to document why. **SEN. LAIBLE** stated that his bill provided an oversight committee, which was important. He felt that local governments needed to look farther out and his bill encouraged that. **SEN. LAIBLE** contended that **SB 158** was flexible and changeable and that local governments were the ones that could change the plan. He said that everyone wanted a consistent and equitable impact fee system

and that they would need to work together to accomplish that goal. **SEN. LAIBLE** complimented **SEN. MANGAN** on his proactive approach to the competing impact fee bills. He was pleased that the bills were going to subcommittee to work for consensus. **SEN. LAIBLE** was confident that they could put together a bill that would work for everyone.

ADJOURNMENT

Adjournment: 5:54 P.M.

SEN. JEFF MANGAN, Chairman

JENNIFER KIRBY, Secretary

JM/jk

Additional Exhibits:

EXHIBIT ([los19aad0.PDF](#))

Senate Local Govt. Comm.
 Exhibit No. 1
 Date Jan. 25, 2005
 Bill No. SB 185

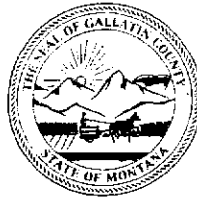
COMPARISON OF IMPACT FEE BILLS
 Prepared for the Senate Local Government Committee
 by Leanne Kurtz, Committee Staff
 January 25, 2005

	SB 158 (Lalble)	SB 185 (Mangan)
Defined Terms in Common	Capital improvement: improvement to a public facility, by new construction or acquisition, with expected minimum useful life of 20 years or more that increases capacity of public facility to provide services. Does not include books furniture, consumables, or computers. Impact fee: monetary assessment required as a condition of development approval. Does not include: charge or fee to pay for administration, plan review, or inspection costs associated with a permit required for development; connection charge; the cost of developing or applying calculations used in determining impact fees or the cost of developing or applying an ordinance; or any other fee authorized by law, such as user fees, SID assessments, and cost of maintenance. Local government entity: has meaning provided in 7-6-602 ("a consolidated city-county or a county or an incorporated city or town") and includes a charter form of government. Public facility: water supply production, treatment, storage, or distribution; wastewater collection, treatment, or disposal; transportation, including roads, streets, bridges, rights-of-way, traffic signals, landscaping; storm water collection, retention, detention, treatment, or disposal or flood control; or police, emergency medical rescue, or fire protection.	Capital improvements: improvements with useful life of 10 years or more, which increase or improve the service capacity of a public facility. Impact fee: the charge imposed upon new development by a governmental entity to fund all or a portion of the public facility's capital improvements affected by the new development from which it is collected. Governmental entity: county, city, town, or consolidated government. Public facilities: water supply production, treatment, storage, and distribution; sewer, wastewater, and solid waste collection, treatment, and disposal; roads, streets, and bridges, including rights-of-way, traffic signals, landscaping, and local components of state and federal highways; storm water collection, retention, detention, treatment, and disposal facilities, flood control, bark and shore protections, and enhancement improvements; parks, open space area, and recreation facilities; police, emergency medical, rescue, and fire protection; and other facilities consistent with a community's capital improvement program (also defined in subsection (1) of Section 1).

	Also defined: "connection charge", "development", "development approval", and "facilities plan"	Also defined: "capital improvement program" and "proportionate share"
How Fees are Imposed	>A local government entity that has adopted a facilities plan [defined in subsection (5) of section 1] may impose impact fee by ordinance or resolution. A facilities plan is a plan that describes all new public facilities needed to serve projected growth and includes the proposed location of the facility and a schedule of estimated dates for commencing and completing the construction or installation of the public facility. [Section 3] >A local government entity may impose fees on behalf of local districts. [Section 3(2)]	>Governmental entity must conduct a needs assessment for the type of public facility for which impact fees would be levied. The needs assessment would identify levels of service standards and projected capital improvement needs and must distinguish existing needs from future needs. The governmental entity must adopt the needs assessment. [Section 2(1)]
How Fees are Calculated	>Must be based on a reasonable and equitable formula using generally accepted accounting principles. [Section 5(3)] >Impact fee may not exceed the proportionate share of the cost of system improvements as based on the facilities plan. [Section 3(4)] >Calculations to determine amount of fees must be based on facilities plan and must be developed by an independent and neutral party. [Section 5(1)] >Calculations may not exceed the proportionate share of the capital cost of future public facilities after the government considers payments for system improvements reasonably anticipated to be made by or as a result of the development in the form of user fees, debt service payments, taxes, and all other available sources of funding the system improvements. [Section 5(4)]	>Amount must be based on the actual cost of the expansion or improvements, or a reasonable estimate of the cost to be incurred by the governmental entity as a result of the new development. Must be in accordance with generally accepted accounting principles. [Section 2(3)] >Amount must be reasonably related to or reasonably attributable to the development's share of the cost of infrastructure improvements made necessary by the development. [Section 2(4)] >May not exceed a proportionate share of the costs incurred or to be incurred by the entity. There are specific factors that must be considered in determining a proportionate share of public facilities capital improvement costs [Section 2(4)(b)(i)].
Collection of Fees	>The ordinance or resolution directing imposition of the fees must require payment no earlier than the date of issuance of the building permit or no earlier than the time of wastewater or water service connection or well or septic permitting. [Section 3(5)]	>Fees must be assessed upon issuance of building permit or other permission to proceed with development. Fees may be assessed at an earlier time if pursuant to an ordinance or resolution enacted at least 90 days before SB 185 becomes effective. [Section 3(2)]

		>Fees must be collected in full upon issuance of certificate of occupancy or other final action authorizing intended use of the structure. [Section 3(2)] >Governmental entity may recoup costs of excess capacity in existing capital facilities under certain circumstances by requiring fees for the portion of the facilities constructed for future users. [Section 3(3)]
Expenditure of Fees	>No time restrictions on expenditure or encumbrance. >Provides for granting of credits and refunds if fees are not spent in accordance with ordinance or resolution or if developer and governments agree to an arrangement. [Section 3(5)(c)]	>Ordinance or resolution imposing the fees may consider certain requirements. [Section 3(1)] >Fee revenue must be expended or encumbered within 8 years of collection unless expenditure or encumbrance is not feasible. Fees may not be retained longer than 12 years. [Section 3(1)(b) and (c)]
Other Requirements	>Impact fee for transportation facility may be assessed only to pay for system improvements within certain distances from the development, unless governing body demonstrates need. [Section 3 (6)] >Impact fee advisory committee must be established; required membership is specified. [Section 4] >Local government financial reports, prepared under 2-7-503, MCA, must include information on collection and expenditure of impact fees. [Section 7]	>No restriction on transportation facility fees. >No advisory committee required. >No specific requirement for inclusion in financial reports. >Fees may not be imposed for remodeling, rehabilitation, or other improvements to an existing structure or rebuilding damaged structure unless there is an increase in number of dwelling units or other measurable unit. [Section 3(5)].
Other Provisions	>After a local government entity has adopted an ordinance or resolution imposing fees for a type of public facility, a requirement for a system improvement for that type of facility may be imposed only as provided in the ordinance or resolution. [Section 6]	>Governmental entity may accept dedication of land or construction of public facilities in lieu of payment of impact fees under certain circumstances. [Section 3(4)] >Fees may be imposed when property owned or controlled by federal or state

	>Imposition of fees other than as provided in the Act among powers denied to a local government with self-government powers. [Section 8] >An ordinance or resolution imposing fees must comply with the Act or be repealed by October 1, 2006, unless the fees are pledged for payment of bonds before the Act is effective. [Section 11]	government is converted to private ownership. [Section 3(5)] >Governmental entity may grant any exemption it considers appropriate. [Section 3(6)]
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Senate Local Govt Comm.

Exhibit No. 2

Date Jan. 25, 2005

Bill No. SB185

GALLATIN COUNTY

January 24, 2005

Honorable Senator Jeff Mangan
Montana State Senate – Local Government
PO Box 200500
Helena MT 59620-1800

**Re: Senate – Local Government, 1/25, 3 p.m.
SB 185 & SB 158
Impact Fee Sub-Committee**

Dear Chairman Mangan:

The Gallatin County Planning Department and Gallatin County Road Department support the creation of a sub-committee to further investigate and prepare suitable legislation addressing impact fees. We are encouraged with efforts by Senate – Local Government to take on this issue and strongly support passage of reasonable regulation.

Gallatin County has imposed road and fire impact fees for nearly eight years and believes we have a model system. For obvious reasons, we support statutory authority that corresponds with our impact fee policy. Within the past year, we have hired Robert Peccia & Associates of Helena to assist us in updating our road impact fee program. We are currently in the process of finalizing that review and hope to amend our program in the near future.

We will continue to track the progress of Senate Bills 185 & 158, and any eventual outcome presented by the sub-committee. We are available to answer any questions during the interim.

We appreciate the opportunity to comment.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennifer Maedgic", written over a horizontal line.

Jennifer Maedgic
Gallatin County Planning Director

A handwritten signature in black ink, appearing to read "Lee Provance", written over a horizontal line.

Lee Provance
Gallatin County Road Superintendent

TESTIMONY OF ALAN TOWLERTON
DEPUTY PUBLIC WORKS DIRECTOR, CITY OF BILLINGS
IN SUPPORT OF
SENATE BILL 185
JANUARY 25, 2005

My name is Alan Towlerton. I am the Deputy Public Works Director for the City of Billings and I am here today to offer support for the impact fee legislation as proposed in Senate Bill 185 with some amendments that I will address in a moment. While the City of Billings believes that these types of programs and issues are best handled at the local level and that overarching legislation is not needed, we also believe that any legislation that is enacted should grant local jurisdictions the maximum amount of flexibility to address their service needs considering their specific conditions. We believe that the proposed Senate Bill 185 comes closer to accomplishing this goal than its companion bill 158, thus our support for 185.

Our comments regarding specific items in the proposed bill are:

- Section 2 (1) – **Calculation of impact fees** – we suggest the language regarding the needs assessment be clarified to indicate that this assessment need not be a separate document if the entity has an existing process or document that will fulfill this need. For example, the City of Billings has an ongoing Capital Improvement Program that encompasses a multi-year period and outlines needed improvements in various areas of the City.
- Section 3(1) – **Collection and expenditure of impact fees** – this section indicates that the governmental entity “may” consider the listed requirements. We are unclear if the author’s intent was to mean “shall”. We believe the permissive tense may create confusion on down the line.
- Section 3(2) – **Collection and expenditure of impact fees** – we suggest that the timing of the fee collection be left to the local jurisdictions. We believe this issue may indeed vary from location to location and may also vary depending on the facilities the impact fees address. The review and approval process may also vary among entities, thus necessitating the need for different time frames.

Thank you for your consideration of our comments in this important matter and I am available for questions.

Senate Local Govt. Comm.

Exhibit No. 4Date JAN. 25, 2005Bill No. SB185Bozeman
Daily

Chronicle

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Saturday, October 02, 2004

Impact fee lawsuit drying up city building lot supply

By Russ Squire

Through the continuation of the impact fee law suit, the building industry in the Bozeman area is shooting itself and the issue of housing affordability in the foot.

Lot prices have skyrocketed in the past year at a rate greater than at any other single time in our city's history – up 30 percent to 60 percent. That's not just inflation, its hyper-inflation. So, what's causing it?

The answer, quite simply, is a lack of enough supply to meet rising consumer demand for building lots in Bozeman. Why can't we have more lots approved in the city on central services? There is a developing lack of capacity within our water and, more specifically, sewer systems. The 24- inch sewer trunk line being installed on North Rouse over the past year needs to be extended to the south where it can help alleviate bottlenecks in the present system, thereby allowing for more capacity. Instead, this line will end at Babcock for now. Why not proceed with the improvements now? The city doesn't have the money to do so because \$20 million of future infrastructure funding is tied up in the impact fee law suit.

I sat on the Impact Fee Advisory Group back in 1997 when I was president of the Southwest Montana Building Industry Association. At that time, the industry supported the impact fee with mixed emotions within the group. As board composition changed the group decided to retain an attorney to fight the constitutionality of the fee because at the time it was enacted, the city of Bozeman did not have self-governing powers.

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What's new?**

Shortly after the impact fee was enacted the city obtained self-governing powers.

Fast forward five years and the suit is still not resolved and is beginning to artificially restrict the supply of new development in Bozeman. It's sort of ironic that the impact fee lawsuit may quickly become the champion of the slow growth/no growth crowd when in the beginning they were the impact fees greatest supporters. Little did the no-growth crowd know at the time that the impact fee was really a wolf in sheep's clothing -- i.e., a growth enabling mechanism. Many builders thought, erroneously, that the impact fee was a slow-growth mechanism. By suing the city the builders will ultimately give the slow-growth/no-growth group just what they wanted -- slow growth/no growth.

The single most important, and somewhat controllable variable, in the affordable housing equation is land cost. As a city and local economy, we are powerless to influence world commodity markets for lumber, oil and concrete. We do, however, have the ability to influence land prices in the local market by creating a greater supply of building lots to balance with demand.

The impact fee lawsuit has hog tied our ability to meaningfully influence this side of the equation. Had the lawsuit not been enjoined, then Bozeman would have \$20 million more in water, streets and sewer infrastructure today, and the existing capacity bottlenecks would not be an issue. In fact, it is quite possible that the impact fee lawsuit has hurt housing affordability more than any other variable within our control over the past decade and, quite frankly, I'm ashamed of that fact.

Bozeman housing affordability has been mortally wounded by this tryst pitting builders against city infrastructure demands, the very same services their future ability to build relies upon. It's time for calmer heads to prevail and work out a solution to the impact fee impasse before Bozeman's city motto has to be changed to "The Most Livable, Yet Unaffordable, Place."

Russ Squire is a member of the city of Bozeman Impact Fee Advisory Board and past-president of the Southwest Montana Building Industry Association.

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LEGAL MEMO

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**TO: BYRON ROBERTS, EXECUTIVE DIRECTOR, MONTANA BUILDING
INDUSTRIES ASSOCIATION (MBIA)**
FROM: MICHAEL S. KAKUK, ATTORNEY
RE: IMPACT FEE BILL COMPARISON
DATE: JANUARY 24, 2005

PURPOSE AND DISCLAIMER

You have asked me to briefly review the major differences between the two introduced impact fees bills, i.e., SB158 sponsored by Sen. Liable, and SB185, sponsored by Sen. Mangan. This is provided below.

Note. These comments are based on preliminary review only, therefore, additional research may be necessary before final decisions are made regarding these important issues.

Additionally, all comments are mine alone and should not be attributed to any other individual or organization.

As always, feel free to contact me with any questions, comments, or to further discuss these issues.

ISSUE	SB 158	SB 185
Capitol Improvements: "useful life"	Useful life of 20 years. [Sec. 2.(1)(a)]	Useful life of 10 years. [Sec. 1.(2)]
Capitol Improvements: "exclusions"	Specifically excludes books, furniture, etc. [Sec. 2.(1)(b)]	No exclusions listed. [Sec. (2)]
Public Facilities	Includes, <u>and is limited to</u> : ▪ water, ▪ wastewater, ▪ transportation, ▪ storm water, and ▪ emergency facilities. [Sec. 2.(8)]	Includes all of those facilities included under SB 158 and also includes: ▪ parks; and ▪ "<i>other facilities consistent with a community's CIP.</i>" [Sec. 1.(6)]
Transportation facility limitations	Limits transportation impact fees to ½ mile in a city, or 3 miles in a county, without a written finding regarding health and safety impacts. [Sec. 3.(6)]	No transportation facility limitations.
Impact Fee Advisory Committee	Requires Advisory Committee to oversee calculation and imposition of impact fees. [Sec. 4.]	No Advisory Committee required.
"Recoupment"	Prohibits cost recovery through impact fees for facilities already constructed. [Sec. 5.(4)]	Allows for cost recovery for already constructed facilities under certain conditions. [Sec. 3.(3)]

Financial reports	Requires a report including information regarding impact fees. [Sec. 7]	Does not require information regarding impact fees be reported.
Exclusive Authority	Prohibits impact fees except under the Act. [Sec. 8.(13)]	Does not prohibit the imposition of impact fees through means other than the Act.
Validity Of Existing Impact Fees	Requires any existing impact fee be brought into compliance with SB158 by October 1, 2006. [Sec. 11.(1)]	Allows imposition of all currently existing impact fees with no requirement to comply with the SB185. [Sec. 3.(2)]

Essential Elements of Senate Bill 158 - Montana Impact Fee Legislation

January 25, 2005

Authorize Impact Fees

Authorize local government entities to impose impact fees. Local governments may enact fees on behalf of local districts.

Adoption by Ordinance or Resolution

Ordinance or Resolution Must at a minimum:

Establish an Impact Fee Advisory Committee

Establish an impact fee advisory committee to serve in an advisory capacity to the governing body of the local government entity. The committee shall include at least one active builder, one active developer, one active real estate professional and a Certified Public Accountant. The committee shall review and monitor the process of calculating and assessing impact fees.

Establish a Formula for Calculation of Impact Fees

- Calculated by an independent and neutral party.
- Calculations and credits to be based on a reasonable and equitable formula and based on generally acceptable accounting principles
- Shall provide credits for system improvements reasonably anticipated to be made by or as a result of the development in the form of projected future taxes, user fees, or debt service payments and all other available sources of funding the system improvements.
- The methodology shall be based on projected facility needs contained in the facilities plan
- The methodology for determining impact fees shall be based solely on system improvement costs necessary to serve projected development.
- The proposed fee may not exceed a proportional share of the cost of system improvements.

Define Eligible Capital Facilities

An improvement, by new construction or acquisition, with an expected minimum useful life of 20 years or more that increases the capacity of a public facility to provide services. Eligible facilities are defined as sewer, water supply, transportation and emergency services.

Define time at which fee is paid, no earlier than:

- The date of issuance of a building permit if a building permit is required for the development; or
- The time of wastewater or water service connection or well or septic permitting;

Establish a facilities Plan

- Must Include a description and location of all proposed new public facilities based on projected future growth
- Must include a schedule setting forth estimated dates, based on the best available information, for commencing and completing construction of all improvements identified in the facilities plan

Provide for Refund of Unexpended Fees

Provide for a refund if fees are not collected in accordance with proposed facilities development schedules contained in the facilities plan or in accordance with requirements of this act.

Provide for Financial Reporting and Audit

A local government entity that imposes impact fees shall include in its financial report, prepared pursuant to 2-7-503, all calculations used to determine impact fees, a report describing the amount of impact fees collected, appropriated, or expended during the preceding year by type of public facility and by service area.

Senate Local Govt. Comm.

Exhibit No. 7Date JAN. 25, 2005Bill No. SB 158**Summary of Municipal Impact Fees**

Missoula, Montana

Revised - City

City of Missoula		Parks	Fire	Police	Community Services	TOTAL
Residential		Per Housing Unit				
SFD & MH < 1,000 Sq Ft		\$320	\$84	\$41	\$180	\$625
SFD & MH 1,000-1,499 Sq Ft		\$380	\$100	\$48	\$213	\$741
SFD & MH 1,500-1,999 Sq Ft		\$422	\$112	\$54	\$238	\$826
SFD & MH 2,000-2,499 Sq Ft		\$453	\$120	\$58	\$255	\$886
SFD & MH 2,500+ Sq Ft		\$481	\$127	\$61	\$270	\$939
All Other Residential		\$286	\$76	\$36	\$161	\$559
Nonresidential		Per Thousand Square Feet of Floor Area				
Com / Shop Ctr 50,000 SF or less		\$148	\$88		\$260	\$496
Com / Shop Ctr 50,001-100,000 SF		\$130	\$78		\$227	\$435
Com / Shop Ctr 100,001-200,000 SF		\$115	\$68		\$201	\$384
Com / Shop Ctr over 200,000 SF		\$104	\$58		\$181	\$343
Office / Inst 25,000 SF or less		\$210	\$92		\$367	\$669
Office / Inst 25,001-50,000 SF		\$197	\$58		\$344	\$599
Office / Inst 50,001-100,000 SF		\$185	\$41		\$324	\$550
Office / Inst over 100,000 SF		\$174	\$32		\$304	\$510
Light Industrial		\$120	\$23		\$210	\$353
Warehousing		\$66	\$13		\$116	\$195

For Mike Kudus

Summary of Municipal Impact Fees

Missoula, Montana

Original pricing - from study

City of Missoula		Parks	Fire	Police	Community Services	TOTAL
Residential		Per Housing Unit				
SFD & MH < 1,000 Sq Ft		\$837	\$102	\$239	\$562	\$1,740
SFD & MH 1,000-1,499 Sq Ft		\$993	\$121	\$284	\$667	\$2,065
SFD & MH 1,500-1,999 Sq Ft		\$1,104	\$135	\$316	\$743	\$2,298
SFD & MH 2,000-2,499 Sq Ft		\$1,184	\$144	\$338	\$796	\$2,462
SFD & MH 2,500+ Sq Ft		\$1,258	\$153	\$360	\$845	\$2,616
All Other Residential		\$750	\$91	\$214	\$504	\$1,559
Nonresidential		Per Thousand Square Feet of Floor Area				
Com / Shop Ctr 50,000 SF or less		\$180	\$527		\$487	\$1,194
Com / Shop Ctr 50,001-100,000 SF		\$157	\$464		\$426	\$1,047
Com / Shop Ctr 100,001-200,000 SF		\$139	\$404		\$378	\$921
Com / Shop Ctr over 200,000 SF		\$126	\$349		\$340	\$815
Office / Inst 25,000 SF or less		\$254	\$546		\$688	\$1,488
Office / Inst 25,001-50,000 SF		\$238	\$345		\$646	\$1,229
Office / Inst 50,001-100,000 SF		\$224	\$243		\$608	\$1,075
Office / Inst over 100,000 SF		\$211	\$193		\$571	\$975
Business Park		\$199	\$164		\$538	\$901
Light Industrial		\$145	\$137		\$393	\$675
Warehousing		\$80	\$77		\$218	\$375

**TESTIMONY OF ALAN TOWLERTON
DEPUTY PUBLIC WORKS DIRECTOR, CITY OF BILLINGS
IN OPPOSITION TO
SENATE BILL 158
JANUARY 25, 2005**

My name is Alan Towlerton. I am the Deputy Public Works Director for the City of Billings and I am here today to voice opposition to the impact fee legislation as proposed in Senate Bill 158. While the bill's intent may be well-meaning, we believe it is overly detailed, restrictive, and ambiguous in some areas and is an example where control is either being taken away from or not being left at the local level, where it really belongs.

While we understand there are concerns by the development and building community with these types of revenue programs and their administration, we also strongly believe that the issue can and should be handled at the local level. Local governments are the hub of community resources and activities. As I'm sure you repeatedly hear, they are being asked to do more with less, accommodate continuing growth and provide essential public services, all while keeping tax and fee increases low or nonexistent. Local jurisdictions are in the best position to assess both the improvements needed to provide services and the fiscal means to support the services. We believe that prudent determination of these types of fees using knowledgeable individuals and adhering to industry standards will dictate that most, if not all, of the items identified in the bill will be followed, thus negating the need for the proposed bill and oversight. We believe this can be done at the local level to the satisfaction of all parties, with little or no oversight legislation needed, and Billings has such a success story to point to in this regard!

In 2004, the City of Billings increased their existing system development, or impact, fees and construction fees. As part of this effort, in addition to utilizing a professional consultant to determine these fees, the City established a stakeholder group that was involved throughout the entire process. This group consisted of representatives of the engineering community, downtown business interests, builders and developers, realtor interests and city and county government. The end result of this entire effort was that the stakeholders supported the recommended fees at the public hearing before the City Council. In addition, this group expressed interest in continuing this type of forum and momentum for other issues. We believe this illustrates that these types of programs can be established without considerable rancor and disagreement. However, the local jurisdictions need to have the flexibility to work within the framework of their particular circumstances without the overlying umbrella of "cookie cutter" legislation with undue restrictions as outlined in Senate Bill 158.

Thank you for your consideration of our comments in this important matter and I am available for questions.

MONTANA SENATE
2005 LEGISLATURE

ROLL CALL

LOCAL GOVERNMENT

DATE JANUARY 25, 2005

NAMES	PRESENT	ABSENT	EXCUSED
SEN. JEFF MANGAN, CHAIRMAN	X		
SEN. JOHN ESP	X		
SEN. KELLY GEBHARDT	X		
SEN. KIM GILLAN	X		
SEN. BOB HAWKS	X		
SEN. RICK LAIBLE	X		
SEN. LYNDA MOSS	X		
SEN. JERRY O'NEIL	X		
SEN. JIM SHOCKLEY	X		
SEN. CAROLYN SQUIRES	X		
SEN. MICHAEL WHEAT	X		
LEANNE KURTZ, LSD	X		
JEN KIRBY, COMMITTEE SECRETARY	X		

DATE 01-25-05

SENATE COMMITTEE ON Local Government

BILLS BEING HEARD TODAY: SB 158, SB185

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
VIM MORE	459-7617	HAMLIN CONSTRUCT.	SB 158 SB 185		
MIKE HUGHES	439-0818	MIKE HUGHES BUILDERS	SB 185		
STEVE GOLNAR	823-6000	CITY OF LIVINGSTON	SB 158 185		
RAYMOND J. CARROLL	595-0829	PRIVATE CITIZEN	SB 185 SB 158	X	X
Shirley Powell	586-6557	Concerned Citizen	SB 185 SB 158	X	X
John Harding	452-2416	SAH Aluminum Products	SB 185 SB 158		
Marcia Youngman	587-5704	Bozeman City Commission	SB 185 SB 158	X	X
DOUG GARRAMONE	728-1285	GARRAMONE BLDs.	SB 185 SB 158	X	X
Travis Schnicke	595-2221	MBIA	SB 158 SB 185	X	X
ALAN TOWLETTOR	651-8310	CITY OF BILLINGS	SB 158 SB 185	X	X
JP POMNICHOWSKI	587-7846	BOZEMAN/NEIGH V	SB 185	X	
Susan Johnson	585-9905	Bozeman, Private Citizen	SB 185	X	
Kaaron Jacobson	587-5968	Private Citizen	SB 185	X	

Jamie McCall 670-3084 City of Boz

VISITOR REGISTER

185 X
158 X

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE _____

SENATE COMMITTEE ON _____

BILLS BEING HEARD TODAY: _____

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
HAROLD Stepper	225-4040	Jefferson County	SB 158		✓
HAROLD Blathie	444-4360	MAC	185 158	✓	
ELAINE MANN	980-2052	BROADWATER COUNTY	SB 158 SB 185	✓	
RONALD ELLIOTT	285-6511	MONTANA ASSC. of REALTORS	SB 158 SB 185	✓	✓
Chris Saunders	582-2260	City of Bozeman	SB 158 SB 185	✓	✓
Dab Dabney	585-9808	Farmhouse Partners	SB 158 SB 185		✓
Chris Kukuk	582-2306	City of Bozeman	158 185	✓	✓
Jim Patrick	758-7703	City of Kalispell	158 185	x	x
Byron Roberts	442-6063	MT Building Ind Assn	SB 158 185	✓	
Cary Hegreberg	2-4162	Contractors Assoc.	158 185	✓	
Mr Keeler	258-4609	City of Missoula	158 185	✓	✓
JOE MAZUREK	457-2000	City of Gr Falls	185	✓	
TIM DAVIS	449-6086	SB MSGC	185	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE _____

SENATE COMMITTEE ON _____

BILLS BEING HEARD TODAY: _____

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
CURT CHISHOLM	459-7562	MB) A	SB 168	✓	
Tim Cooper	592-2313	City of Boreman	158		✓
Gary Amstutz	443-8370	Richland Economic Development Corporation	158 185	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY



MONTANA STATE SENATE

+++++ WITNESS STATEMENT +++++

NAME Susan Johnson

ADDRESS 410 W. Arthur Bz

HOME PHONE: 585-9905 WORK PHONE: _____

REPRESENTING Citizen of Boz. - Small BS.

APPEARING ON WHICH PROPOSAL ? 185

DO YOU: SUPPORT X OPPOSE _____ AMEND _____

COMMENTS:

Support Impact Fees so that
shall be an service without
being taxed - property -

Susan Johnson

PLEASE LEAVE PREPARED STATEMENT WITH
COMMITTEE SECRETARY



MONTANA STATE SENATE

+++++ WITNESS STATEMENT +++++

NAME RAYMOND J. CARROLL B.S.C.

ADDRESS Box 3285, Bozeman, MT. 59772

HOME PHONE: 595-0825 WORK PHONE: 587-9914

REPRESENTING Self - Former Chicago City Planner.

APPEARING ON WHICH PROPOSAL ? SB 185

DO YOU: SUPPORT ☒ OPPOSE ☐ AMEND ☐

COMMENTS:

I remember studying impact fee in 1993 in
College. They were good then.
But time changes things; so I punched up the
American Planning Associations website; www.planning.org.
I just punched into the search box on the left.
"Impact Fees" The American planning Associations
Funding and Standards came up.
Having Layed both bills side by side with the
Planning Assoc Standards in the middle.
SB 185 appears to be in greater agreement with
the American Planning Associations accumulated
wisdom. Planners being more prone to lean toward what is good for
I Therefore I support SB 185 the people and the
Community.

PLEASE LEAVE PREPARED STATEMENT WITH
COMMITTEE SECRETARY



MONTANA STATE SENATE

+++++ WITNESS STATEMENT +++++

NAME LESLIE HEISEY

ADDRESS P.O. Box 410002 Radersburg MT 59441

HOME PHONE: 266-3851 WORK PHONE: _____

REPRESENTING Broadwater Rural Fire District

APPEARING ON WHICH PROPOSAL ? SB 158 / SB 185

DO YOU: SUPPORT X OPPOSE _____ AMEND _____

COMMENTS:

Broadwater County is seeing significant growth in subdivisions in the last 3 years. The increased demands on the infrastructure is growing. To ~~assess~~^{assess} the anticipated costs, the Rural Fire district determined its current level of service. Our current level of service is \$1,830.00^{per house hold}. With additional demands we are not able to continue the current level of service without added funds. The passage of impact fee legislation will allow Broadwater County to charge the new developments instead of the taxpayers for maintaining the level of service for all residents new or old.

PLEASE LEAVE PREPARED STATEMENT WITH
COMMITTEE SECRETARY

SENATE JOURNAL
THIRTY-FOURTH LEGISLATIVE DAY - FEBRUARY 11, 2005

SENATE JOURNAL
59TH LEGISLATURE
THIRTY-FOURTH LEGISLATIVE DAY

Helena, Montana
February 11, 2005

Senate Chambers
State Capitol

Senate convened at 12:30 p.m. President Tester presiding. Invocation by Fr. Jerry Lowney. Pledge of Allegiance to the Flag. Roll Call. All members present, except Senator Pease, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Balyeat, O'Neil, Shockley.
Total 3

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL: 2/11/2005
Correctly printed: **SB 73, SB 91, SB 103, SB 279, SB 295, SB 355, SB 365, SB 368, SB 369, SB 434, SB 435, SB 436, SB 437, SB 438, SB 439, SB 440, SB 441, SB 442, SB 443, SB 444, SB 445, SB 446, SB 447, SB 448, SB 449, SB 450, SB 451, SB 452, SB 453, SB 454, SB 455, SB 456, SJR 11, HB 38.**
Correctly engrossed: **SB 101, SB 173, SB 185, SB 191, SB 207, SB 255, SB 278, SB 290, SB 318.**

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman): 2/11/2005
SB 368, do pass. Report adopted.
SB 369, do pass. Report adopted.

ENERGY AND TELECOMMUNICATIONS (Toole, Chairman): 2/11/2005
SB 365, do pass. Report adopted.

HIGHWAYS AND TRANSPORTATION (Pease, Chairman): 2/11/2005
SB 295, do pass. Report adopted.
SB 318, introduced bill, be amended as follows:

1. Title, line 5.

Following: "QUADRICYCLES;"

Insert: "ALLOWING THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS' PARKRANGERS AND GAME WARDENS TO ENFORCE NOISE EMISSION AND SPARK ARRESTOR LIMITATIONS ON QUADRICYCLES;"

2. Title, line 17.

Following: "SECTIONS"

Insert: "23-1-122,"

3. Page 1, line 21.

Insert: "Section 1. Section 23-1-122, MCA, is amended to read:

SENATE JOURNAL
THIRTY-FOURTH LEGISLATIVE DAY - FEBRUARY 11, 2005

"23-1-122. Enforcement powers of park rangers and game wardens. (1) Park rangers appointed pursuant to 23-1-121 and fish and game wardens appointed pursuant to 87-1-501 are authorized officers with the authority to enforce the laws and adopted rules relating to parks and outdoor recreation contained in chapters 1 and 2 of this title, except chapter 2, part 7.

(2) An authorized officer may:

(a) arrest, in accordance with Title 46, chapter 6, any person within an area managed by the department upon probable cause to believe that the person has committed an offense against chapters 1 and 2 of this title, except chapter 2, part 7, or rules of the department or the fish, wildlife, and parks commission;

(b) enforce the disorderly conduct and public nuisance laws under 45-8-101 and 45-8-111 as they apply to the operation of motorboats on waters within areas managed by the department under this part; and

(c) exercise other powers of peace officers in the enforcement of:

(i) laws relating to parks and outdoor recreation contained in chapters 1 and 2 of this title, except chapter 2, part 7;

(ii) rules of the department and the fish, wildlife, and parks commission; ~~and~~

(iii) judgments obtained for violations of the laws and rules specified in this subsection (2)(c); and

(iv) laws related to noise emissions and spark arrestors on quadricycles under 61-9-418."

Renumber: subsequent sections

4. Page 2, line 28.

Strike: "or"

Insert: "and"

5. Page 2, line 29.

Strike: "10"

Insert: "11"

6. Page 3, line 29.

Strike: "61-3-133"

Insert: "61-1-133"

7. Page 4, line 30.

Strike: "10"

Insert: "11"

8. Page 5.

Following: line 5

Insert: "(4) Revenue from the fees required under subsection (2) must be deposited in the state special revenue fund to the credit of the department of fish, wildlife, and parks to be used to administer issuance of nonresident temporary registrations pursuant to subsection (2) and to develop and administer a comprehensive off-highway vehicle program."

9. Page 5, line 13.

Strike: "6"

Insert: "7"

10. Page 10, line 7 through line 8.

Strike: "transferred" on line 7 through "fund" on line 8

Insert: "deposited in the state special revenue fund to the credit of the department of fish, wildlife, and parks to be used to administer the issuance of temporary nonresident driving permits and to develop and administer a comprehensive off-highway vehicle program"

11. Page 11, line 6.

Strike: "6"

Insert: "7"

12. Page 11, line 9.

Strike: "10"

Insert: "11"

SENATE JOURNAL
THIRTY-FOURTH LEGISLATIVE DAY - FEBRUARY 11, 2005

13. Page 11, line 11.

Strike: "6"

Insert: "7"

14. Page 11, line 13.

Strike: "6"

Insert: "7"

15. Page 11, line 14.

Strike: "10"

Insert: "11"

16. Page 11, line 15.

Strike: "10"

Insert: "11"

17. Page 11, line 16.

Strike: "12"

Insert: "13"

18. Page 11, line 17.

Strike: "12"

Insert: "13"

And, as amended, do pass. Report adopted.

JUDICIARY (Wheat, Chairman):

2/11/2005

SB 207, introduced bill, be amended as follows:

1. Title, line 5.

Following: "OFFENDERS"

Insert: "DESIGNATED AS LEVEL 3 OFFENDERS"

2. Title, line 7.

Following: "OF"

Insert: "LEVEL 3"

3. Page 2, line 3.

Strike: "(1)"

Following: "part 5,"

Insert: "who is designated as a level 3 offender under 46-23-509,"

4. Page 2, line 4.

Following: "condition of"

Strike: "sentence, including"

Following: "parole,"

Insert: "conditional release,"

5. Page 2, line 7 through line 11.

Strike: subsection (2) in its entirety

6. Page 2, line 14.

Following: "offenders"

Insert: "designated as level 3 offenders under 46-23-509"

SENATE JOURNAL
THIRTY-FOURTH LEGISLATIVE DAY - FEBRUARY 11, 2005

7. Page 4, line 8.

Following: line 7

Insert: "COORDINATION SECTION. Section 6. Coordination instruction. If House Bill No. 288 is passed and approved and if it amends 46-23-1031, then [section 3 of this act], amending 46-23-1031, is void and 46-23-1031 must be amended as follows:

"46-23-1031. Supervisory fees -- account established. (1) (a) Except as provided in subsection ~~(1)(b)~~ (1)(c), a probationer, parolee, or person committed to the department who is supervised by the department:

~~(i) under intensive supervision or conditional release shall pay to the clerk of the district court that has jurisdiction over the person during the person's supervision department~~ a supervisory fee of no less than \$120 a year and no more than \$360 a year, prorated at no less than \$10 a month for the number of months under supervision; ~~or~~

~~(ii) under continuous satellite-based monitoring shall pay to the department a supervisory fee of no more than \$4,000 a year as established by rules adopted by the department under [section 2].~~

~~(b)~~ A person allowed to transfer supervision to another state shall pay a fee of \$50 to cover the cost of processing the transfer. The interstate transfer fees required by this subsection must be collected by the department.

~~(b)(c)~~ The court, department, or board may reduce or waive a fee required by subsection (1)(a) ~~or (1)(b)~~ or suspend the monthly payment of the supervisory fee if it determines that the payment would cause the person a significant financial hardship.

(2) (a) There is an account in the state special revenue fund for the supervisory fees collected under the provisions of this section.

~~(b) Prior to July 1, 2003, district court clerks shall deduct from the total supervisory fees collected pursuant to subsection (1) the administrative cost of collecting and accounting for the fees and shall deposit the remaining amount into the state special revenue account established in subsection (2)(a). After June 30, 2003, district court clerks shall deposit the total supervisory fees collected pursuant to subsection (1) into the state special revenue account established in subsection (2)(a) as specified by the supreme court administrator."~~

Renumber: subsequent sections

8. Page 4, line 11.

Following: line 10

Insert: "NEW SECTION. Section 8. Contingent voidness. If House Bill No. 2 does not contain a line item appropriation to implement the provisions of [sections 1 and 2], then [this act] is void."

Renumber: subsequent section

And, as amended, do pass. Report adopted.

SB 355, do pass. Report adopted.

LOCAL GOVERNMENT (Mangan, Chairman):

2/11/2005

SJR 11, be adopted. Report adopted.

SB 173, introduced bill, be amended as follows:

1. Title, page 1, line 8.

Strike: "VARIANCE PERMITS FOR NONCONFORMING USES"

Insert: "VARIANCES"

2. Title, page 1, line 10 through line 11.

Following: "APPLICATIONS;"

Insert: "AND"

Strike: "PERMITS" on line 10 through "DATE" on line 11

Insert: "VARIANCES"

3. Page 1, line 17.

Following: "flooding;"

Insert: "and"

4. Page 1, line 18 through line 24.

Strike: ";" on line 18 through "structure" on line 24

SENATE JOURNAL
THIRTY-FOURTH LEGISLATIVE DAY - FEBRUARY 11, 2005

5. Page 1, line 26.

Following: line 25

Insert: "(a) waters flowing within Montana's perennial rivers and streams belong to all the people of the state of Montana, as provided in Article IX, section 3, of the Montana constitution;

(b) Montana's natural rivers and streams and the lands and property immediately adjacent to them are to be protected and preserved in their natural or existing state, as provided in 75-7-102 of The Natural Streambed and Land Preservation Act of 1975;

(c) fish and wildlife that rely on Montana's rivers and streams for habitat likewise belong to all the people of the state of Montana;

(d) impacts of development on Montana's rivers and streams, including increased downstream erosion and diminished water quality, are often manifested across local government jurisdictional boundaries;

(e) the state has a duty and legitimate interest in protecting the integrity of its rivers and streams on behalf of all its citizens, not merely those who live in the local jurisdiction where a particular reach of a river or stream may be located;"

Renumber: subsequent subsections

6. Page 1, line 26.

Strike: "maintaining"

Insert: "maintenance of"

7. Page 1, line 28.

Following: "development"

Strike: "and in many cases"

Insert: " ;"

8. Page 1, line 29.

Following: line 28

Insert: "(h)"

Following: "Montana"

Insert: " in many cases"

Renumber: subsequent subsection

9. Page 2, line 3 through line 16.

Strike: subsections (3) and (4) in their entirety

10. Page 2, line 27.

Strike: "surface"

Insert: "perennial flowing class I"

Following: "lakes"

Strike: "and streams, that:"

Insert: ", as defined in 23-2-301."

11. Page 2, line 28 through page 3, line 6.

Strike: line 28 through line 6 in their entirety

12. Page 3, line 7.

Strike: "has the" through "77-5-302"

Insert: "means perennial flowing class II waters as defined by 23-2-301"

13. Page 3, line 9.

Strike: "activities and"

14. Page 3, line 12.

Strike: "(1)"

15. Page 3, line 14.

Strike: "(a)"

Insert: "(1)"

SENATE JOURNAL
THIRTY-FOURTH LEGISLATIVE DAY - FEBRUARY 11, 2005

16. Page 3, line 16.

Strike: "(b)"

Insert: "(2)"

17. Page 3, line 17 through line 19.

Following: "greater" on line 17

Strike: "." on line 17 through "(1)" on line 19

Insert: "; or

(3) an area established through a locally adopted zoning district pursuant to [section 9]"

18. Page 3, line 21.

Strike: "and activities"

19. Page 3, line 22.

Following: "(2)"

Insert: "or (3)"

Strike: "and activities"

20. Page 3, line 25.

Strike: ", barn, shed,"

21. Page 3, line 28 through line 30.

Following: "structure" on line 28

Strike: "; " on line 28 through "river" on line 30

22. Page 4, line 1.

Strike: "or activities"

23. Page 4, line 2 through line 6.

Following: "a"

Strike: "nonconforming" on line 2 through "[sections 7 and 8]." on line 6

Insert: "lawful use of land or buildings that existed on or before [the effective date of this act] even if the use does not conform to the provisions of [sections 1 through 9];

(b) any use conducted on property subject to a hydroelectric project license issued by the federal energy regulatory commission or otherwise located within the licensed project boundary as determined by the federal energy regulatory commission;

(c) agricultural uses; and

(d) structures and equipment used to collect and transport water from a stream or river for agricultural or industrial uses, including diversion and intake structures, pipes, pumps and pumphouses, and related equipment.

(3) The provisions of [sections 1 through 9] do not apply to incorporated cities and towns or zoning districts that have residential densities of at least 1 unit per acre and are served by municipal sewer and water systems."

Renumber: subsequent subsection

24. Page 4, line 16.

Strike: "or activity"

25. Page 4, line 17.

Strike: "or activity prohibited under [section 4]"

Insert: "as provided in [section 4(1)]"

26. Page 4, line 19.

Strike: "prohibited use or activity"

Insert: "use"

27. Page 4, line 23.

Strike: "A"

Insert: "The proper authorities of the county, in addition to other remedies, may institute any appropriate action or proceeding to ensure that a "

Strike: "or activity"

SENATE JOURNAL
THIRTY-FOURTH LEGISLATIVE DAY - FEBRUARY 11, 2005

28. Page 4, line 24.

Strike: "nonconforming use permit"

Insert: "variance"

29. Page 4, line 25.

Following: "it."

Insert: "The governing body may appoint enforcing officers to supervise and enforce the provisions of this part."

30. Page 4, line 27.

Strike: "Variance for nonconforming uses"

Insert: "Variances"

31. Page 4, line 28.

Strike: "permits for nonconforming uses"

Insert: "a variance for a use"

32. Page 4, line 29.

Following: "measured by"

Insert: "one or more of"

33. Page 4, line 30.

Strike: "permit"

Insert: "variance"

34. Page 5, line 1 through line 2.

Following: "met" on line 1

Strike: ", " on line 1 through "use" on line 2

35. Page 5, line 3.

Strike: "Permits for nonconforming uses"

Strike: "Variances"

36. Page 5, line 4.

Following: "subdivision."

Strike: remainder of line 4

37. Page 5, line 5.

Strike: "permit"

Insert: "variance"

38. Page 5, line 8.

Strike: "permit for nonconforming use"

Insert: "variance"

39. Page 5, line 9.

Strike: "permit for a nonconforming use"

Insert: "variance"

40. Page 5, line 11 through line 12.

Strike: subsection (a) in its entirety

Renumber: subsequent subsections

41. Page 5, line 13.

Following: "the"

Strike: "geometry" through "such that"

42. Page 5, line 14.

Strike: "completely eliminate"

Insert: "unreasonably restrict"

SENATE JOURNAL
THIRTY-FOURTH LEGISLATIVE DAY - FEBRUARY 11, 2005

43. Page 5, line 21.

Strike: "permit for a nonconforming use"

Insert: "variance"

44. Page 5, line 23.

Strike: "nonconforming use"

Insert: "use allowed by the variance"

Following: "small as"

Insert: "reasonably "

45. Page 5, line 25.

Strike: "permitted nonconforming use"

Insert: "use allowed by the variance"

46. Page 5, line 26.

Strike: "permitted nonconforming use"

Insert: "use allowed by the variance"

47. Page 5, line 27.

Strike: "permitted nonconforming use"

Insert: "use allowed by the variance"

Following: "not be"

Strike: "detrimental or"

48. Page 5, line 29.

Strike: "of a permit for a nonconforming use"

Insert: "for a variance"

Strike: "presenting sufficient"

Insert: "establishing a preponderance of"

49. Page 5, line 30.

Strike: "permit"

Insert: "variance"

50. Page 6, line 1 through line 3.

Strike: subsection (4) in its entirety

51. Page 6, line 8 through line 14.

Following: "area;" on line 8

Insert: "and"

Strike: line 9 through line 14 in their entirety

Insert: "(b) the political subdivision has adopted a zoning district that includes standards for setting new buildings at least 50 yards from the ordinary high-water mark on rivers and 15 yards from the ordinary high-water mark on streams."

52. Page 6, line 16.

Strike: "activities"

Insert: "uses"

53. Page 7, line 5.

Strike: section 14 in its entirety

And, as amended, be adopted. Report adopted.

SB 185, introduced bill, be amended as follows:

1. Title, line 8.

SENATE JOURNAL
THIRTY-FOURTH LEGISLATIVE DAY - FEBRUARY 11, 2005

Following: "AN"

Insert: "IMMEDIATE"

Following: "DATE"

Insert: "AND AN APPLICABILITY DATE"

2. Page 1, line 12 through page 4, line 20.

Strike: everything after the enacting clause

Insert: "NEW SECTION. Section 1. Definitions. As used in [sections 1 through 4], the following definitions apply:

(1) (a) "Capital improvements" means improvements, land, and equipment with a useful life of 10 years or more that increase or improve the service capacity of a public facility.

(b) The term does not include consumable supplies.

(2) "Connection charge" means the actual cost of connecting a property to a public utility system and is limited to the labor, materials, and overhead involved in making connections and installing meters.

(3) "Development" means construction, renovation, or installation of a building or structure, a change in use of a building or structure, or a change in the use of land when the construction, installation, or other action creates additional demand for public facilities.

(4) "Governmental entity" means a county, city, town, or consolidated government.

(5) (a) "Impact fee" means any charge imposed upon development by a governmental entity as part of the development approval process to fund the additional service capacity required by the development from which it is collected. An impact fee may include a fee for the administration of the impact fee not to exceed 5% of the total impact fee collected.

(b) The term does not include:

(i) a charge or fee to pay for administration, plan review, or inspection costs associated with a permit required for development;

(ii) a connection charge;

(iii) any other fee authorized by law, including but not limited to user fees, special improvement district assessments, fees authorized under Title 7 for county, municipal, and consolidated government sewer and water districts and systems, and costs of ongoing maintenance; or

(iv) onsite or offsite improvements necessary for new development to meet the safety, level of service, and other minimum development standards that have been adopted by the governmental entity.

(6) "Proportionate share" means that portion of the cost of capital system improvements that reasonably relates to the service demands and needs of the project. A proportionate share must take into account the limitations provided in [section 2].

(7) "Public facilities" means:

(a) a water supply production, treatment, storage, or distribution facility;

(b) a wastewater collection, treatment, or disposal facility;

(c) a transportation facility, including roads, streets, bridges, rights-of-way, traffic signals, and landscaping;

(d) a storm water collection, retention, detention, treatment, or disposal facility or a flood control facility;

(e) a police, emergency medical rescue, or fire protection facility; and

(f) other facilities for which documentation is prepared as provided in [section 2] that have been approved as part of an impact fee ordinance or resolution by:

(i) a two-thirds majority of the governing body of an incorporated city, town, or consolidated local government; or

(ii) a unanimous vote of the board of county commissioners of a county government."

Insert: "NEW SECTION. Section 2. Calculation of impact fees -- documentation required -- ordinance or resolution -- requirements for impact fees. (1) For each public facility for which an impact fee is imposed, the governmental entity shall prepare and approve documentation that:

(a) describes existing conditions of the facility;

(b) establishes level of service standards;

(c) forecasts future additional needs for service for a defined period of time;

(d) identifies capital improvements necessary to meet future needs for service;

(e) identifies those capital improvements needed for continued operation and maintenance of the facility;

(f) makes a determination whether one service area or more than one service area is necessary to establish a correlation between impact fees and benefits;

(g) makes a determination whether one service area or more than one service area for transportation facilities is needed to establish a correlation between impact fees and benefits;

SENATE JOURNAL
THIRTY-FOURTH LEGISLATIVE DAY - FEBRUARY 11, 2005

(h) establishes the methodology and time period over which the governmental entity will assign the proportionate share of capital costs for expansion of the facility to provide service to new development within each service area;

(i) establishes the methodology that the governmental entity will use to exclude operations and maintenance costs and correction of existing deficiencies from the impact fee;

(j) establishes the amount of the impact fee that will be imposed for each unit of increased service demand; and

(k) has a component of the budget of the governmental entity that:

(i) schedules construction of public facility capital improvements to serve projected growth;

(ii) projects costs of the capital improvements;

(iii) allocates collected impact fees for construction of the capital improvements; and

(iv) covers at least a 5-year period and is reviewed and updated at least every 2 years.

(2) The data sources and methodology supporting adoption and calculation of an impact fee must be available to the public upon request.

(3) The amount of each impact fee imposed must be based upon the actual cost of public facility expansion or improvements, or reasonable estimates of the cost, to be incurred by the governmental entity as a result of new development. The calculation of each impact fee must be in accordance with generally accepted accounting principles.

(4) The ordinance or resolution adopting the impact fee must include a time schedule for periodically updating the documentation required under subsection (1).

(5) An impact fee must meet the following requirements:

(a) The amount of the impact fee must be reasonably related to and reasonably attributable to the development's share of the cost of infrastructure improvements made necessary by the new development.

(b) The impact fees imposed may not exceed a proportionate share of the costs incurred or to be incurred by the governmental entity in accommodating the development. The following factors must be considered in determining a proportionate share of public facilities capital improvements costs:

(i) the need for public facilities capital improvements required to serve new development; and

(ii) consideration of payments for system improvements reasonably anticipated to be made by or as a result of the development in the form of user fees, debt service payments, taxes, and other available sources of funding the system improvements.

(c) Costs for correction of existing deficiencies in a public facility may not be included in the impact fee.

(d) New development may not be held to a higher level of service than existing users unless there is a mechanism in place for the existing users to make improvements to the existing system to match the higher level of service.

(e) Impact fees may not include expenses for operations and maintenance of the facility."

Insert: "NEW SECTION. Section 3. Collection and expenditure of impact fees -- refunds or credits -- mechanism for appeal required. (1) The collection and expenditure of impact fees must comply with [sections 1 through 4]. The collection and expenditure of impact fees must be reasonably related to the benefits accruing to the development paying the impact fees. The ordinance or resolution adopted by the governmental entity must include the following requirements:

(a) Upon collection, impact fees must be deposited in a special proprietary fund, which must be invested with all interest accruing to the fund.

(b) A governmental entity may impose impact fees on behalf of local districts.

(c) If the impact fees are not collected or spent in accordance with the impact fee ordinance or resolution or in accordance with [section 2], any impact fees that were collected must be refunded to the person who owned the property at the time that the refund was due.

(2) All impact fees imposed pursuant to the authority granted in [sections 1 through 4] must be paid no earlier than the date of issuance of a building permit if a building permit is required for the development or no earlier than the time of wastewater or water service connection or well or septic permitting.

(3) A governmental entity may recoup costs of excess capacity in existing capital facilities, when the excess capacity has been provided in anticipation of the needs of new development, by requiring impact fees for that portion of the facilities constructed for future users. The need to recoup costs for excess capacity must have been documented pursuant to [section 2] in a manner that demonstrates the need for the excess capacity. [Sections 1 through 4] do not prevent a governmental entity from continuing to assess an impact fee that recoups costs for excess capacity in an existing facility. The impact fees imposed to recoup the costs to provide the excess capacity must be based on the governmental entity's actual cost of acquiring, constructing, or upgrading the facility and must be no more than a proportionate share of the costs to provide the excess capacity.

(4) Governmental entities may accept the dedication of land or the construction of public facilities in lieu of payment of impact fees if:

(a) the need for the dedication or construction is clearly documented pursuant to [section 2];

SENATE JOURNAL
THIRTY-FOURTH LEGISLATIVE DAY - FEBRUARY 11, 2005

(b) the land proposed for dedication for the public facilities to be constructed is determined to be appropriate for the proposed use by the governmental entity;

(c) formulas or procedures for determining the worth of proposed dedications or constructions are established as part of the impact fee ordinance or resolution; and

(d) a means to establish credits against future impact fee revenue has been created as part of the adopting ordinance or resolution if the dedication of land or construction of public facilities is of worth in excess of the impact fee due from an individual development.

(5) Impact fees may not be imposed for remodeling, rehabilitation, or other improvements to an existing structure, or rebuilding a damaged structure, unless there is an increase in units that increase service demand as described in [section 2 (1)(j)]. If impact fees are imposed for remodeling, rehabilitation, or other improvements to an existing structure or use, only the net increase between the old and new demand may be imposed.

(6) [Sections 1 through 4] do not prevent a governmental entity from granting refunds or credits:

(i) that it considers appropriate and that are consistent with the provisions of [section 2] and this chapter; or

(ii) in accordance with a voluntary agreement, consistent with the provisions of [section 2] and this chapter, between the governmental entity and the individual or entity being assessed the impact fees.

(7) An impact fee represents a fee for service payable by all users creating additional demand on the facility.

(8) An impact fee ordinance or resolution must include a mechanism whereby a person charged an impact fee may appeal the charge if the person believes an error has been made."

Insert: "NEW SECTION. Section 4. Impact fee advisory committee. (1) A governmental entity that intends to propose an impact fee ordinance or resolution shall establish an impact fee advisory committee.

(2) An impact fee advisory committee must include at least one representative of the development community and one certified public accountant. The committee shall review and monitor the process of calculating, assessing, and spending impact fees.

(3) The impact fee advisory committee shall serve in an advisory capacity to the governing body of the governmental entity."

Insert: "NEW SECTION. Section 5. Transition. A general powers local government that is imposing impact fees shall bring the imposition of those fees into compliance with [this act] by October 1, 2006."

Insert: "NEW SECTION. Section 6. Codification instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 7, chapter 6, and the provisions of Title 7, chapter 6, apply to [sections 1 through 4]."

Insert: "NEW SECTION. Section 7. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act]."

Insert: "NEW SECTION. Section 8. Effective date. [This act] is effective on passage and approval."

Insert: "NEW SECTION. Section 9. Applicability. (1) [This act] applies only to an impact fee ordinance or resolution enacted or amended by a self-governing local government on or after the effective date of this act].

(2) Except when an impact fee ordinance or resolution is amended as provided in subsection (1), nothing in [this act] may be construed to affect an ordinance or resolution enacted prior to [the effective date of [this act]]."

And, as amended, be adopted. Report adopted.

SB 255, introduced bill, be amended as follows:

1. Page 8, line 4.

Following: "vibrations,"

Insert: "light,"

2. Page 12, line 11.

Following: "new structures"

Insert: "or trees"

3. Page 12, line 12.

Following: "structures"

Insert: "or replacing existing trees"

4. Page 12, line 13 through line 16.

SENATE JOURNAL
THIRTY-FOURTH LEGISLATIVE DAY - FEBRUARY 11, 2005

Strike: subsection (2) in its entirety
Renumber: subsequent subsections

5. Page 12, line 22.
Strike: "its"
Insert: "the owner's"

6. Page 12, line 30.
Following: "body"
Insert: "that designated the airport affected area"

And, as amended, be adopted. Report adopted.

SB 279, be adopted. Report adopted.
SB 290, introduced bill, be amended as follows:

1. Page 5, line 30 through page 6, line 2.
Following: "shows" on page 5, line 30
Strike: "the" on page 5, line 30 through "(1)(h)" on page 6, line 2
Insert: "(i) the location, within 100 feet outside of the exterior property line of the subdivision and on the proposed lots, of:
 (A) flood plains;
 (B) surface water features;
 (C) springs;
 (D) irrigation ditches;
 (E) existing, previously approved, and proposed water wells and wastewater treatment systems; and
 (F) mixing zones identified as provided in subsection (1)(g); and
 (ii) the location, within 500 feet outside of the exterior property line of the subdivision, of public water and sewer facilities"

2. Page 6, line 19.
Strike: "multiple user and public"
Following: "systems,"
Insert: "unless cisterns are proposed,"

3. Page 6, line 24 through line 26.
Strike: subsection (f) in its entirety
Renumber: subsequent subsections

4. Page 7, line 5.
Strike: "(1)(h)"
Insert: "(1)(g)"

5. Page 7, line 22.
Following: "comment"
Insert: "submitted at a hearing or hearings"

And, as amended, be adopted. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Cromley, Chairman):
SB 101, introduced bill, be amended as follows:

2/11/2005

SENATE JOURNAL
THIRTY-FOURTH LEGISLATIVE DAY - FEBRUARY 11, 2005

1. Title, page 1, lines 6 through 8.

Strike: the second "PROVIDING" on page 1, line 6 through "PROGRAMS;" on line 8

2. Title, line 9.

Following: "SERVICES TO"

Insert: "APPOINT A WORKING GROUP TO"

3. Title, page 1, line 12.

Strike: "20-5-323, 20-9-311," on page 1, line 12

Following: "50-5-101"

Strike: ", "

4. Page 1, line 16 through page 5, line 1.

Strike: sections 1 and 2 in their entirety

Renumber: subsequent sections

5. Page 12, line 20.

Strike: "5"

Insert: "3"

6. Page 12, line 22.

Strike: "Licensure and registration"

Insert: "Registration"

7. Page 13, line 10.

Strike: "Department"

Insert: "Working group -- "

8. Page 13, line 11.

Following: "legislature."

Insert: "(1) The director of the department shall appoint a working group and shall appoint as members of the group five representatives from registered residential therapeutic schools or programs, two representatives from the department, one representative from the department of labor and industry, and one child advocate.

(2) The working group shall study various methods of licensure for residential therapeutic schools or programs and report progress at each meeting of the children, families, health, and human services interim committee.

(3)"

Strike: "department"

Insert: "working group"

9. Page 13, line 14 through line 16.

Following: "5-11-210."

Strike: remainder of line 14 through "advocates." on line 16

10. Page 13, line 20.

Strike: "5"

Insert: "3"

SENATE JOURNAL
THIRTY-FOURTH LEGISLATIVE DAY - FEBRUARY 11, 2005

11. Page 13, line 21.

Strike: "5"

Insert: "3"

And, as amended, do pass. Report adopted.

STATE ADMINISTRATION (Squires, Chairman):
SB 191, introduced bill, be amended as follows:

2/11/2005

1. Title, page 1, line 7.

Strike: "FINANCIAL INDUSTRY"

Insert: "INSURANCE AND SECURITIES"

2. Page 1, line 17.

Page 1, line 29.

Page 2, line 7.

Page 2, line 16.

Page 3, line 5.

Page 3, line 15.

Page 3, lines 24 and 25.

Page 4, line 2.

Strike: "financial industry"

Insert: "insurance and securities"

3. Page 4, line 10.

Page 4, line 11.

Strike: "financial industry"

Insert: "insurance and securities"

And, as amended, do pass. Report adopted.

TAXATION (Elliott, Chairman):
HB 38, be concurred in. Report adopted.

2/11/2005

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

2/11/2005

HB 25, introduced by Roberts

HB 105, introduced by Parker

HB 156, introduced by Henry

HB 203, introduced by Roberts

HB 230, introduced by Jacobson

HB 295, introduced by Galvin-Halcro

HB 307, introduced by Parker

HB 312, introduced by Golie

HB 324, introduced by Driscoll

HB 367, introduced by Parker

HB 396, introduced by Becker

HB 425, introduced by Parker

MOTIONS

Senator Brueggeman moved **SB 432** be taken from Senate Business, Labor, and Economic Affairs and placed in Senate Taxation. Motion carried.

SENATE JOURNAL
THIRTY-FOURTH LEGISLATIVE DAY - FEBRUARY 11, 2005

Senator Steinbeisser moved his vote on **SB 217** be changed from an "aye" to a "nay". Motion carried.

Senator Gebhardt moved his vote on **SB 217** be changed from an "aye" to a "nay". Motion carried, except Larson.

Majority Leader Ellingson moved the Senate recess for the purpose of receiving the State of Education address from the Honorable Superintendent of Public Instruction Linda McCulloch and further moved that the Senate reconvene upon adjournment of the joint session. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 434, introduced by Lewis, referred to Business, Labor, and Economic Affairs.
SB 435, introduced by Wheat, Kitzenberg, referred to Judiciary.
SB 436, introduced by O'Neil, referred to Judiciary.
SB 437, introduced by Elliott, Story, referred to Taxation.
SB 438, introduced by Elliott, referred to Taxation.
SB 439, introduced by Gebhardt, referred to Business, Labor, and Economic Affairs.
SB 440, introduced by Harrington, referred to Public Health, Welfare and Safety.
SB 441, introduced by Harrington, referred to Highways and Transportation.
SB 442, introduced by Cooney, referred to Finance and Claims.
SB 443, introduced by Roush, referred to Business, Labor, and Economic Affairs.
SB 444, introduced by Smith, referred to Business, Labor, and Economic Affairs.
SB 445, introduced by McGee, referred to Education and Cultural Resources.
SB 446, introduced by Schmidt, referred to Public Health, Welfare and Safety.
SB 447, introduced by Ellingson, referred to Judiciary.
SB 448, introduced by Black, referred to State Administration.
SB 449, introduced by Roush, McNutt, referred to Natural Resources.
SB 450, introduced by Kitzenberg, referred to Taxation.
SB 451, introduced by Wheat, referred to Business, Labor, and Economic Affairs.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 5 passed as follows:

Yeas: Bales, Balyeat, Black, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Mangan, McGee, O'Neil, Roush, Ryan, Schmidt, Shockley, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Wheat, Williams, Mr. President.

Total 39

Nays: Barkus, Brueggeman, Cobb, Gallus, Gillan, Lind, Moss, Perry, Smith, Weinberg.

Total 10

Absent or not voting: None.

Total 0

Excused: Pease.

Total 1

SB 21 passed as follows:

Yeas: Bales, Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton,

SENATE JOURNAL
THIRTY-FOURTH LEGISLATIVE DAY - FEBRUARY 11, 2005

Steinbeisser, Story, Tash, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 45

Nays: Barkus, Gallus, Laible, Toole.
Total 4

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

SB 108 passed as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 47

Nays: Balyeat, Esp.
Total 2

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

SB 154 passed as follows:

Yeas: Barkus, Black, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Laible, Larson, Laslovich, Lind, Mangan, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 38

Nays: Bales, Balyeat, Brueggeman, Curtiss, Grimes, Keenan, Lewis, McGee, Steinbeisser, Story, Tash.
Total 11

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

SB 233 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Esp, Laible, McGee.
Total 3

Absent or not voting: None.
Total 0

SENATE JOURNAL
THIRTY-FOURTH LEGISLATIVE DAY - FEBRUARY 11, 2005

Excused: Pease.
Total 1

SB 259 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

SB 274 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

SB 286 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

SB 299 passed as follows:

Yeas: Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Mangan, Moss, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

SENATE JOURNAL
THIRTY-FOURTH LEGISLATIVE DAY - FEBRUARY 11, 2005

Total 32

Nays: Bales, Balyeat, Barkus, Black, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, McGee, O'Neil, Steinbeisser, Story, Tash.

Total 17

Absent or not voting: None.

Total 0

Excused: Pease.

Total 1

SB 316 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Pease.

Total 1

SB 329 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 48

Nays: O'Neil.

Total 1

Absent or not voting: None.

Total 0

Excused: Pease.

Total 1

SB 340 passed as follows:

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.

Total 46

Nays: Balyeat, O'Neil, Stapleton.

Total 3

Absent or not voting: None.

Total 0

SENATE JOURNAL
THIRTY-FOURTH LEGISLATIVE DAY - FEBRUARY 11, 2005

Excused: Pease.
Total 1

SB 352 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

SJR 13 adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 48

Nays: Esp.
Total 1

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

SPECIAL ORDERS OF THE DAY

The Senate is escorted into the House Chambers and Speaker Matthews relinquishes the Chair to President Tester.

Senate Majority Leader Ellingson moved that the body resolve itself into a joint session for the purpose of receiving the State of Education address from the Honorable Linda McCulloch, Superintendent of Public Instruction. Motion carried.

Fr. Jerry Lowney gave the Invocation. Pledge of Allegiance.

Senate Majority Leader Ellingson moved that a Committee of Four be appointed to notify the Honorable Linda McCulloch, Superintendent of Public Instruction, that the body is in joint session and ready to receive her address. Motion carried.

President Tester appointed Senator Ryan, Senator Story, Representative Raser and Representative Arntzen to the Committee of Four and discharged them to notify the Honorable Linda McCulloch.

Senate Sergeant-at-Arms Dick admitted the Committee of Four and the Honorable Linda McCulloch into the Chambers.

President Tester introduced the Honorable Linda McCulloch, Superintendent of Public Instruction, who then made the following remarks:

SENATE JOURNAL
THIRTY-FOURTH LEGISLATIVE DAY - FEBRUARY 11, 2005

"Good afternoon. I'm so very pleased to be here with you today.

Thank you President Tester, Speaker Matthews, Senator Keenan, Representative Wanzenried and Representative Brown for bringing us together to focus on Montana's children and their future.

I'd also like to recognize Governor Schweitzer and my other colleagues and friends in the Executive and Judicial branches of Montana Government, as well as the Public Service Commissioners.

And a very special thank you to my husband, Bill, for being here with me and supporting my dedication to Montana's kids for another four years.

I begin my State of Education Address with sincere words of thanks for the thousands of dedicated teachers, administrators, school staff and trustees. You work tirelessly, helping Montana's children learn and prepare for successful lives. Simply put, you change lives.

One of those educators is Bud Williams, my Deputy Superintendent. Every day, Bud brings 30 years of experience, expertise and caring to the kids of Montana.

Would all educators, school staff or trustees in the audience, both on the floor and in the gallery, please stand so we may recognize you?

From all of us here, and from all Montanans. Thank you!

I'd like to specifically thank the kids who are watching this address live using video streaming technology. One of those schools is Lockwood School in Billings. Please join me in greeting Mrs. Johnson and her students.

Defining Quality Education

This 59th Legislative Session will be forever remembered as the session that 150 citizens defined an education system that will affect every single Montanan, their children and their grandchildren. It is an historic opportunity. An opportunity that constantly returns us to an event 33 years ago.

It was a defining moment in 1972 when the delegates to the Montana Constitutional Convention put aside partisanship, regional differences and personal agendas and focused on Montana's future. Today, when each of us takes the oath of office, we swear to uphold the document they created. Their task was daunting, but their achievement is resounding.

In the area of education, they agreed upon 15 powerful words:

"The legislature shall provide a basic system of free quality public elementary and secondary schools."

It is up to you to make the most of the opportunity before you -- to make that constitutional statement a reality and have an impact on future generations.

This session is about "moving education forward in Montana." Lawsuits have been filed, hearings have been held, and the courts have ruled. That is past. Now the solution is back where it belongs - in your hands. Your task, like that of the delegates to the constitutional convention, is to focus on the future - on the quality of the schools your children, and their children, will attend.

Let me talk about what these 15 words in our Constitution means to me:

Our country was built on the very dream of "wanting better for our children than we have ourselves." I am living my father's dream. I was the first in my father's family to graduate from High School. My father left school in the eighth grade to go to work and help feed his younger brothers and sisters. He wanted more for his children, and he knew education was the key to making that possible. My parents sacrificed much for us. Their goal was simple: they wanted us to have a better life than they had.

My story is not unique. Parents all across Montana know the meaning of a quality education. It is in the dreams they have for their children.

SENATE JOURNAL
THIRTY-FOURTH LEGISLATIVE DAY - FEBRUARY 11, 2005

Now it is your chance to define a quality education that makes parents' dreams a reality for their children. It must be a definition that encompasses both the aspirations of those dreams, and the tangible reality that makes those dreams achievable.

- * A quality education must include standards set forth by the Board of Public Education.
- * It must provide assessments to make sure our children are succeeding.
- * It must address the needs of Montana's low-income children, at-risk youth, and special needs students -- both challenged and gifted.
- * It must reflect the needs of our American Indian students.
- * It must allow us to recruit and retain high-quality teachers.
- * It must allow us to provide kids with textbooks, library materials, and the technology they need to compete in a changing world.
- * It must provide safe school buildings and buses.
- * And finally, it must be a quality education that will continue to adapt as times change.

Educating Montana's children is a complex process in today's world. The definition you will come up with will undoubtedly be complex as well. But, the ideas are simple. It is about our future, our economy and our KIDS!

Indian Education for All

You also have an opportunity and an obligation to make up for 30 years of neglect to recognize another promise made in our Constitution -- to recognize the distinct and unique cultural heritage of Montana's American Indians.

While American Indians make up about 6 percent of our total state population, American Indian students make up about 11 percent of our students in public schools. It is the only growing student population.

There is an alarming gap in the achievement levels of Indian and non-Indian students in Montana. Did you know that almost half of Montana's American Indian students do not graduate from high school? These factors affect the lives of students, their parents, their communities, and the economy of Montana. All students in Montana must achieve at the very highest level to which they are capable. Anything less is absolutely unacceptable!

Last fall, I hosted an Indian Education Summit that brought together 200 educators and leaders to help me find answers to reducing the achievement gap and to fully implement Indian Education for All Montanans.

All Montana students, and frankly, all of us, deserve the opportunity to understand the rich American Indian culture and history specific to Montana.

Thank you, Governor Schweitzer, for making available in your state budget the opportunity for my office to begin our significant work on Indian Education for All.

We want to do it right and respectfully, which is why the Montana Advisory Council on American Indian Education will be so vital to this effort.

As a teacher I wanted to do the right thing when teaching about Montana's Native people. But I was not always sure how to go about it. It is absolutely critical that all Montana teachers get the assistance they need to fully implement Indian Education for All. I am excited about bringing together educators and other experts to develop resources and hands-on materials to use in our classrooms.

I am thrilled to have this chance to finally make MCA 20-1-501 more than a paper promise!

Develop Funding System

What stands before us is an historic task to develop a funding system. We must venture into uncharted waters and understandably, there will be some trepidation. It is quite a task. Working together we will develop a funding system that works for all our students.

After more than a decade of inadequate funding, this process will not be completed overnight. It may not even be solved in one Legislative Session.

SENATE JOURNAL
THIRTY-FOURTH LEGISLATIVE DAY - FEBRUARY 11, 2005

You must take the time you need to research solutions, design a funding system that provides a quality education, and takes into account taxpayers. These are important issues. Montana's future literally depends on them. My staff and I will work with you as long and as hard as it takes to make sure we get a system that is right for Montana's kids and for Montana's future.

Until a new funding system is developed and implemented, I offer you as a "Bridge to the Future" my three bills for funding options that our schools desperately need now.

1. House Bill 125, carried by Rep. Holly Raser, will be in committee later this afternoon. HB 125 increases the basic and per-student entitlement by \$350 per elementary student and \$200 per high school student. Also included in the calculation is the inflation adjustment as adopted by the 2003 Legislature. Thank you, Rep. Raser!

2. House Bill 111, carried by Rep. Gary Branae, creates a new funding mechanism that responds to Montana's decline in school enrollment. HB 111 recognizes that with the decrease of a few students in a school, the school still needs to provide third grade, fourth grade, and so on, and needs to offer music, PE, Library, and still needs to turn on the heat and lights, but now has significantly less funding. HB 111 provides school districts a \$1,000 per-educator entitlement based on the number of professional staff. The local school trustees decide how the funds best serve their students. Thank you, Rep. Branae!

3. House Bill 47 provides full-time funding for kindergarten students. This bill does not require schools to offer full-time kindergarten, nor does it require parents to enroll their child in full-time kindergarten. Children who are enrolled in full-time kindergarten programs demonstrate:

- * Greater progress in literacy, math and general learning skills,
- * Significant gains in social and emotional development,
- * Fewer student grade retentions and special education placements, which saves the state money,
- * Higher scores on achievement tests,
- * And, reduced behavioral problems. HB 47, carried by Rep. Kathleen Galvin-Halcro, gives some of our most vulnerable kids a helping hand. This bill is all about kids and local control and parental choice. My thanks to you, Rep. Galvin-Halcro!

Recruiting and retaining high quality teachers in Montana is one of our most significant challenges. Central to this challenge is our beginning teacher's salaries that rank 50th in the nation - dead last -- and too many of our teachers lack health benefits. Unless we can find ways to help schools attract and keep high quality teachers, we will continue to see good teachers leave our state. Without question, quality teachers are at the core of a quality education.

Reading

A top priority of my administration is reading.

As a longtime teacher and school librarian, I've seen how the demand for high levels of literacy has never been greater than it is today. The doors to school success, higher education and a good job will never open for many students, if we do not put a real focus on reading in our schools. We must ensure that our students' skills keep pace with society's demands of living in an information age that changes rapidly and is showing no signs of slowing down.

We know that if a student isn't reading at the 3rd grade level by the end of third grade, it is very difficult and very expensive to catch up. If they can't read they can't do social studies or science or read math problems. Lack of reading skills, is also a common reason for dropping out of school.

I began tackling this challenge four years ago by building reading partnerships and aggressively going after funding to support reading efforts in our classrooms.

Every summer teachers gather together for my READ Montana! Summit, affectionately known around the state as the "Summit on a Shoestring." We learn new techniques for teaching reading and explore how we want Montana's students to become successful readers.

So far, our office has competed for and received \$33 million in federal reading funds to target children in

SENATE JOURNAL
THIRTY-FOURTH LEGISLATIVE DAY - FEBRUARY 11, 2005

kindergarten through third grade. We've been able to put some concentrated programs in several schools across the state.

We've kicked off two efforts that partner reading and wellness.

Our partnership with the Department of Public Health and Human Services, called the "The Reading Well ñ Be Well, Read Well," provides a free book to all newly immunized kindergarteners. We like to think that it takes the "sting out of immunizations."

And "Food for the Mind", a partnership with MSU Team Nutrition and the Montana Reading Council, gives K-3 classrooms a book bag, filled with fun books on nutrition and physical activity, for students to take home and enjoy with their parents.

These efforts are beginning to make a difference in our schools. For example, Longfellow Elementary school in Great Falls, a recipient of our reading grants has seen a 16 point increase in fourth grade reading scores in the last three years. This is very significant progress. We will continue to build upon these successes.

Generations

Montanans have always placed a high value on education.

Perhaps folks who value education the most are those who weren't in a position to take it for granted. You helped make the value of an education possible for many Montanans. Senate Bill 81, from last session, carried by Senator Cooney, enables me to award an Honorary High School diploma to World War II, Korean War and Vietnam War veterans who did not receive a High School diploma because of military service.

One day these individuals were carrying textbooks, and the next day they were carrying weapons to protect our nation and preserve our freedom. After the war, many never returned to school, but began families and careers. They became role models and leaders in their communities.

Following the session in 2003, I hosted a graduation ceremony in the Capitol Rotunda for the first 16 veterans, some of whom had waited 60 years to receive their high school diploma.

There was not a dry eye in the audience as veterans walked proudly to the stage to receive their diploma. Mr. Knoll's personal thank you note told me of the 3,511 miles he and his wife journeyed from Southwest Missouri back to his home state of Montana to attend this graduation. Others traveled shorter distances, like the van carrying four veterans from the Columbia Falls Veterans Home and Mr. Little Dog from Browning whose proud granddaughter joined him to share his education moment. The stories go on and on and on.

Each and every one of the almost 300 honorary high school diplomas I have awarded to a veteran is associated with a personal and touching family story -- a story that embodies the importance of public education and our dreams. Thank you for making possible the education dreams of these veterans and their families.

We have a veteran with us today, who like my father, is committed to their children and grandchildren's dreams. And, like my father, did not graduate from High School and served in WWII. I'd like to introduce you to Adam Schweitzer, our Governor's father.

The Governor and I, two members of Montana's Executive Branch were blessed to have parents who valued education. As fathers you play a very important role in our lives. You not only have inspired us by your commitment to our country, but your commitment to education left a legacy of learning.

Mr. Schweitzer, it is a great honor and a pleasure to be able to award you a long awaited honorary high school diploma that acknowledges a lifetime of learning and achievement that has enriched the State of Montana and our country.

Congratulations to both you and my Dad, two very deserving veterans and fathers.

Montanans' commitment to education is timeless, even though the educational needs of our country have changed

SENATE JOURNAL
THIRTY-FOURTH LEGISLATIVE DAY - FEBRUARY 11, 2005

since WW II.

Fifty years ago our economy was dependent on 60% of our workforce being unskilled labor, 20% skilled labor and 20% professional workers. Fast forward to 2005 where 20% of our workforce is still professional. But our demand for unskilled labor has dropped to 15% and skilled labor increased three fold. Now 65% of our economy depends on skilled labor.

The focus in our schools has also changed. Think about it, kindergarten teachers are preparing their five year old students for career options that do not even exist today. That's how important education is to our economy!

Students

Let me take a moment and tell you about the importance of a quality education for one student I taught in elementary school. He was born several years after the state had ratified those 15 important words in the state Constitution. He had good teachers (especially his school librarian) and he worked hard.

It doesn't seem like very long ago that I saw his class off when they graduated from 8th grade, but I know he went on and received a great high school education in Missoula. This student went on to serve his country in Iraq. Then he returned to Montana, and went to school at the University of Montana and then last year he did the strangest thing.

He ran for the State Legislature.

Now he has a desk right here in the third row of this chamber, representing the people of House District 91. Permit me to recognize my student, Representative Kevin Furey.

I am extremely proud to be one of Representative Furey's teachers, to know that the lessons I taught him will not only have an impact on his life, but on those he represents.

We are proud of our Montana students and their test scores. Montana kids continue to score near the top in the nation in reading, science, and math.

That's great. But that's not good enough. Because now our kids are competing internationally. They're competing with students from South Korea and South Vietnam as much as they're competing with students from South Dakota and South Carolina. Kids from other states and countries that invest in education are catching up to us or passing us. Working together we need to make sure this trend doesn't continue. Your work this session is vital to these efforts.

Closing

Our kids are our future. They will become tomorrow's business, spiritual, community and school leaders. They will also become Montana's Legislators, Senators, Governors, Supreme Court Justices and State Superintendents.

It is our kids that will hold us to those 15 words in our State Constitution:

"The legislature shall provide a basic system of free quality public elementary and secondary schools."

I have great faith in the commitment of the Montana Legislature to roll up your sleeves to move education forward in Montana. Together we will do what's right for Montana's kids.

Thanks to the students and educators all across Montana who tuned in to watch the Legislature today.

On behalf of Montana's 146,519 school children and all who work on behalf of public education in our state, I thank you for your time today and your interest in Montana's public schools.

My door is always open and I look forward to your visit."

President Tester thanked the Honorable Linda McCulloch and she was escorted out of the Chambers by the

SENATE JOURNAL
THIRTY-FOURTH LEGISLATIVE DAY - FEBRUARY 11, 2005

Committee of Four.

Joint session adjourned 1:40 p.m.
Senate reconvened 1:47 p.m.

Roll Call. All members present, except Pease and Schmidt, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, McGee, Moss, O'Neil, Perry, Roush, Ryan, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Balyeat, Shockley.
Total 2

Absent or not voting: None.
Total 0

Excused: Pease, Schmidt.
Total 2

MOTIONS

Senator Cooney moved that action on **SB 5**, **SB 108**, and **SB 233** be reconsidered and that they be taken from 3rd reading and placed on 2nd reading the 35th Legislative Day. Motion carried.

Senator Laible moved **SB 10** be blasted out of Senate Education and Cultural Resources and placed on 2nd reading. Motion failed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash.
Total 22

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Roush, Ryan, Schmidt, Smith, Squires, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 27

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

Senator Grimes moved **SB 330** be blasted out of Senate Judiciary and placed on 2nd reading. Motion failed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cobb, Curtiss, Esp, Essmann, Gebhardt, Grimes, Keenan, Laible, Lewis, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story, Tash, Tropila.
Total 23

Nays: Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gallus, Gillan, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Mangan, Moss, Roush, Ryan, Schmidt, Smith, Squires, Toole, Weinberg, Wheat, Williams, Mr. President.
Total 26

Absent or not voting: None.
Total 0

SENATE JOURNAL
THIRTY-FOURTH LEGISLATIVE DAY - FEBRUARY 11, 2005

Excused: Pease.
Total 1

Senator Cocchiarella moved **SB 456** be taken from Senate Business, Labor, and Economic Affairs and placed in Senate Local Government. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 452, introduced by Perry, referred to Judiciary.
SB 453, introduced by Perry, referred to Judiciary.
SB 454, introduced by Gebhardt, referred to Business, Labor, and Economic Affairs.
SB 455, introduced by Toole, referred to Energy and Telecommunications.
SB 456, introduced by Laible, referred to Business, Labor, and Economic Affairs.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Ellingson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Perry in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 278 - Senator Black moved **SB 278** do pass.

SB 278 - Senator Joe Balyeat moved **SB 278**, second reading copy, be amended as follows:

1. Title, page 1, line 4.

Following: "FOR"

Insert: "CERTAIN"

2. Title, page 1, line 6.

Following: "ACCOUNTANTS"

Insert: "UNLESS EXEMPT"

3. Title, page 1, line 7.

Following: "ACCOUNTING BY"

Insert: "CERTAIN"

Following: "REGISTRATION"

Strike: "; AND"

Insert: ", NOTIFICATION, OR A PERMIT;"

4. Title, page 1, line 9.

Following: "BY"

Insert: "CERTAIN"

Following: "ACCOUNTANTS"

Insert: "; AND AMENDING SECTION 37-50-314, MCA"

5. Page 1, line 13.

Following: "accountant"

Insert: "-- exemption"

SENATE JOURNAL
THIRTY-FOURTH LEGISLATIVE DAY - FEBRUARY 11, 2005

6. Page 1, line 14.

Following: the first "person"

Insert: "not otherwise licensed or exempt under this part"

7. Page 1.

Following: line 30

Insert: "(4) A nonresident certified public accountant who is licensed in good standing by a jurisdiction recognized by the board as having licensing standards substantially equivalent to the standards authorizing the practice of public accounting in this state may:

(a) practice without being licensed in this state or obtaining a special permit from this state if the certified public accountant notifies the board and provides the certified public accountant's name, current address, license number, and jurisdiction in which the person is licensed; or

(b) prepare federal or state income tax returns for a Montana resident if the certified public accountant does not physically come to Montana to prepare the tax returns."

Renumber: subsequent subsection

8. Page 2, line 5.

Following: "that"

Insert: "is not exempt under [section 1(4)] and that"

9. Page 2, line 9.

Following: "or"

Insert: "subsection (1) of"

10. Page 2, line 11.

Following: "unless"

Insert: "exempt under [section 1(4)] or"

11. Page 2.

Following: line 12

Insert: "Section 3. Section 37-50-314, MCA, is amended to read:

"37-50-314. Permit required -- display. (1) Except as provided in subsection (3), a person may not engage in the practice of public accounting in this state without a current permit issued by the department. A permit to engage in the practice of public accounting in this state must be issued by the department to a person who holds a current certificate as a certified public accountant or license as a licensed public accountant and complies with the requirements of this chapter.

(2) The current permit to engage in the practice of public accounting must be prominently displayed for public inspection.

(3) A certified public accountant who is preparing federal or state income tax returns for a Montana resident and who does not physically come to Montana to prepare the tax returns does not need a permit under this section and is not required to notify the board as provided in [section 2]."

Renumber: subsequent section

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brueggeman, Cocchiarella, Cromley, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hawks, Keenan, Laible, Lewis, Lind, Mangan, McGee, O'Neil, Perry, Ryan, Shockley, Stapleton, Steinbeisser, Story, Tash, Weinberg, Wheat, Mr. President.
Total 32

Nays: Cooney, Ellingson, Elliott, Hansen, Harrington, Kitzenberg, Larson, Laslovich, Moss, Roush, Schmidt, Smith, Squires, Toole, Tropila, Williams.
Total 16

SENATE JOURNAL
THIRTY-FOURTH LEGISLATIVE DAY - FEBRUARY 11, 2005

Absent or not voting: None.
Total 0

Excused: Cobb, Pease.
Total 2

SB 278 - Senator Perry moved **SB 278**, as amended, do pass. Motion carried unanimously.

SB 73 - Senator Mangan moved **SB 73** do pass. Motion carried with Senator Gallus voting nay.

SB 91 - Senator Smith moved **SB 91** do pass. Motion carried as follows:

Yeas: Balyeat, Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, Ellingson, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Grimes, Hansen, Harrington, Hawks, Keenan, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, Mangan, Moss, O'Neil, Perry, Roush, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr. President.
Total 46

Nays: Bales, Barkus, McGee.
Total 3

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

SB 103 - Senator Cromley moved **SB 103** do pass. Motion carried as follows:

Yeas: Black, Brueggeman, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus, Gillan, Grimes, Hansen, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lewis, Lind, Moss, Perry, Roush, Ryan, Schmidt, Smith, Squires, Stapleton, Steinbeisser, Toole, Tropila, Weinberg, Wheat, Williams.
Total 34

Nays: Bales, Balyeat, Barkus, Curtiss, Esp, Gebhardt, Keenan, Laible, Mangan, McGee, O'Neil, Shockley, Story, Tash, Mr. President.
Total 15

Absent or not voting: None.
Total 0

Excused: Pease.
Total 1

Senator Ellingson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Tester in the chair. Chairman Perry moved the Committee of the Whole report be adopted. Report adopted unanimously.

UNFINISHED BUSINESS

Minority Leader Keenan discussed Senate Rule 20-20.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Ellingson moved that the Senate adjourn until 8:00 a.m., Saturday, February 12, 2005. Motion carried.

SENATE JOURNAL
THIRTY-FOURTH LEGISLATIVE DAY - FEBRUARY 11, 2005

Senate adjourned at 3:13 p.m.

BILL LOMBARDI
Secretary of Senate

JON TESTER
President of the Senate

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN MARK E. NOENNIG**, on March 10, 2005 at 3:12 P.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Mark E. Noennig, Chairman (R)
Rep. Wayne Stahl, Vice Chairman (R)
Rep. Elsie Arntzen (R)
Rep. Debby Barrett (R)
Rep. Mary Caferro (D)
Rep. Sue Dickenson (D)
Rep. Emelie Eaton (D)
Rep. Gordon R. Hendrick (R)
Rep. Teresa K. Henry (D)
Rep. Mike Jopek (D)
Rep. Gary MacLaren (R)
Rep. Rick Maedje (R)
Rep. Dave McAlpin (D)
Rep. Tom McGillvray (R)
Rep. Bernie Olson (R)

Members Excused:

Rep. Hal Jacobson, Vice Chairman (D)
Rep. Margaret H. Campbell (D)
Rep. Christopher Harris (D)

Members Absent: None.

Staff Present: Susan Fox, Legislative Branch
Kyanne Kelly, Committee Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: SB 215, 3/4/2005; SB 162, 3/4/2005;
SB 185, 3/4/2005

Executive Action: SB 129

HEARING ON SB 215

Opening Statement by Sponsor:

SEN. DAN MCGEE (R), SD 29, opened the hearing on **SB 215**, Survey monument preservation.

00:00:42

[EXHIBIT](#)(loh53a01)

Proponents' Testimony:

00:06:00 Loren Frazier, Department of Transportation

00:06:41 Jim Kembell, Registered Land Surveyors

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

00:07:43

Closing by Sponsor:

00:32:35

HEARING ON SB 162

Opening Statement by Sponsor:

SEN. JEFF MANGAN (D), SD 12, opened the hearing on **SB 162**, Modernize county official bonding laws.

00:35:17

Proponents' Testimony:

00:37:14 Harold Blattie, Association of Counties

[EXHIBIT](#)(loh53a02)

00:40:38 Steve Wade, Montana Municipal Insurance Authority

00:41:24 Alec Hansen, League of Cities and Towns

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

00:43:17

Closing by Sponsor:

00:43:21

REP. HARRIS entered the room.

HEARING ON SB 185

Opening Statement by Sponsor:

SEN. JEFF MANGAN (D), SD 12, opened the hearing on **SB 185**, Revise and clarify laws on impact fees.

00:43:55

Proponents' Testimony:

00:49:50 **SEN. RICK LAIBLE, SD 44, VICTOR**
00:53:33 Curt Chisholm, Building Industry Association
00:59:05 Michael Kakuk, Building Industry Association
01:02:05 Harold Blattie, Association of Counties
01:03:15 Mike Cadis, Mayor of Missoula
01:06:14 Tim Davis, Montana Smart Growth Coalition
01:07:14 Alec Hansen, League of Cities and Towns
01:10:08 Linda Stoll, Association of Planners
01:10:55 Tim Burton, City Manager of Helena
01:13:03 Janie McCall, City of Billings

EXHIBIT(loh53a03)

01:14:15 Glenn Oppel, Association of Realtors
01:14:55 Chris Kukulski, City of Bozeman
01:16:02 Jim More, Builder in Helena
01:16:55 Byron Roberts, Building Industry Association
01:17:57 Elaine Mann, Broadwater County Commissioner

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

01:19:39

Closing by Sponsor:

01:40:32

EXECUTIVE ACTION ON SB 129

Motion: REP. JOPEK moved that SB 129 BE CONCURRED IN.

Discussion:

01:44:09

Vote: Motion carried unanimously by voice vote. REPS. JACOBSON, CAMPBELL AND MAEDJE voted by proxy. REP. DICKENSON to carry.

ADJOURNMENT

Adjournment: 5:00 P.M.

REP. MARK E. NOENNIG, Chairman

KYANNE KELLY, Secretary

MN/kk

Additional Exhibits:

EXHIBIT ([loh53aad0.PDF](#))

HOUSE OF REPRESENTATIVES
Roll Call
LOCAL GOVERNMENT COMMITTEE

DATE 3.10.05

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT</u>	<u>EXCUSED</u>
REP. MARK NOENNIG, CHAIR	✓		
REP. HAL JACOBSON, VICE CHAIR			✓
REP. WAYNE STAHL, VICE CHAIR	✓		
REP. ELSIE ARNTZEN	✓		
REP. DEBBY BARRETT	✓		
REP. MARY CAFERRO	✓		
REP. MARGARETT CAMPBELL			✓
REP. SUE DICKENSON	✓		
REP. EMILIE EATON	✓		
REP. CHRISTOPHER HARRIS	✓		✓
REP. GORDON HENDRICK	✓		
REP. TERESA HENRY	✓		
REP. MIKE JOPEK	✓		
REP. GARY MacLAREN	✓		
REP. RICK MAEDJE	✓		
REP. DAVE McALPIN	✓		
REP. TOM McGILLVRAY	✓		
REP. BERNIE OLSON	✓		



HOUSE STANDING COMMITTEE REPORT

March 11, 2005

Page 1 of 1

Mr. Speaker:

We, your committee on **Local Government** recommend that **Senate Bill 129** (third reading copy -- blue) be concurred in.

Signed: Mark E. Noennig

Representative Mark E. Noennig, Chair

To be carried by Representative Sue Dickenson

- END -

Committee Vote:
Yes 18, No 0.

540836SC.hkh

3/11/05

jbn

COMMITTEE PROXY

DATE 03-10-05

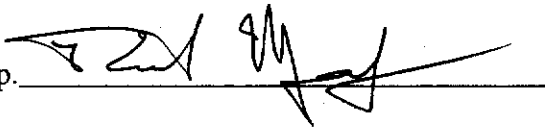
I request to be excused from the RICIL MAESTRE Local Court
Committee meeting this date because of other commitments. I desire to leave my proxy vote
with _____

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and
number under the bill and indicate a separate vote for each amendment.

HOUSE BILL/ AMENDMENT AYE NO

SENATE BILL/AMENDMENT AYE NO

SB 129	AYE	

Rep. 

(Signature)

COMMITTEE PROXY

DATE: 2-8-05

I request to be excused from the Local Govt

Committee because of other commitments. I desire to leave my proxy vote with:

Rep. Hal Jacobson

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

HOUSE BILL/AMENDMENT

AYE NO

TABLE H.B. 233	X	
H.B. 244		X
H.B. 330 AMEND	X	
H.B. 330 AS AMEND	X	
H.B. 321 AMEND #1	X	
H.B. 321 AMEND #2	X	
H.B. 321 AS AMEND	X	
SB 129	X	

SENATE BILL/AMENDMENT

AYE NO

Rep./Sen. Shane H. Hulse
(Signature)

COMMITTEE PROXY

DATE: _____

I request to be excused from the _____

Committee because of other commitments. I desire to leave my proxy vote with:

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

HOUSE BILL/AMENDMENT AYE NO

SB 129	X	

SENATE BILL/AMENDMENT AYE NO

Rep./Sen. _____

(Signature)

VISITORS REGISTER

Montana

House of Representatives

Local Government Committee

Bill Number: SB 215

Date: 3/10/05

Please print ~ Please print ~ Please print ~ Please print

Name	Representing	Support	Oppose	Informational
Jim Kember	MARLS	X		
Louisa Frazier	MDT	X		

Please leave prepared testimony with Committee Secretary. Witness Statement forms are available if you care to submit written testimony.

VISITORS REGISTER

Montana

House of Representatives

Local Government Committee

Bill Number: SB 162

Date: 3/10/05

Please print ~ Please print ~ Please print ~ Please print

Name	Representing	Support	Oppose	Informational
Steve Wade	mmia	X		
HAROLD Blatter	MACO	X		

Please leave prepared testimony with Committee Secretary. Witness Statement forms are available if you care to submit written testimony.

VISITORS REGISTER

Montana

House of Representatives

Local Government Committee

Bill Number: SB 185

Date: 3/10/05

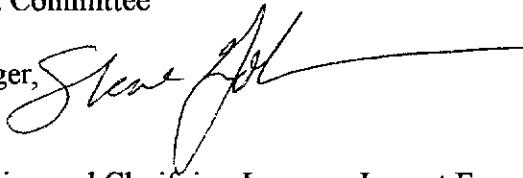
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Name	Representing	Support	Oppose	Informational
Kurt Bushnell	MSFA	✓		
Jani McCall	City of Billings	✓		
Chris A. Kukulski	City of Bozeman	✓		
WRT CHISHOLM	MBIA	✓		
ELAINE MANIN, BCC	BROADWATER CO.	✓		
Tim Burton	CITY of Helena	✓		
Glenn Oppel	MT Assn. Realtors	✓		
HAROLD Blahie	MACO	✓		
LINDA STOLL	MT ASSN OF PLANNERS	✓		
Byron Roberts	MT Building Ind Assn	✓		
TIM DAVIS	MSGC	✓		
Jim MORE	HBIA	✓		

Please leave prepared testimony with Committee Secretary. Witness Statement forms are available if you care to submit written testimony.

EXHIBIT 3
DATE 3.10.05
SB 185

TO: Representative Noennig, Chairman,
House Local Government Committee

FROM: Steve Golnar, City Manager, 
City of Livingston

RE: Support for SB 185 Revising and Clarifying Laws on Impact Fees

DATE: March 10, 2005

The City of Livingston is experiencing significant development impact now and we need the Legislative authority to assess impact fees to offset capital and infrastructure costs for Police, Fire, Ambulance, Transportation (including a railroad crossing, storm sewers, and intersection signalization) required by the demands of growth. Water and Sewer Service system development fees are currently in the process of being reevaluated.

FY02-03 3 residential permits
 22 remodels

FY03-04 13 residential permits
 59 remodels

FY04-05 68 residential permits
So far 123 remodels

79 new lots approved at the beginning of February 2005. These have all been sold and requests for 13 additional residential permits have already been received. An additional 52 lot subdivision which was previously going to be developed by a developer is now being sold off resulting in more residential permit requests.

We are hearing about development proposals which could result in nearly doubling the size of our community (currently 3,200 households). Almost all of this development would take place to the North and west of Livingston which will heighten the need for more rail road track crossings.

Livingston needs the ability to create and assess impact fees to address the front-end costs associated with grow and we need that ability now. The Legislature's assistance in creating impact fee authority for general powers local governments is desperately needed.

Thank you.

Cc: Livingston City Commission
Livingston Local Government Study Commission



Have a hand in building hope.

406-257-8800

Fax: 406-257-8656

email: habitat@aboutmontana.org

web: www.habitat.org

February 16, 2005

To the Montana State Legislators

RE: Impact Fees/Taxes, Bill # 185

When considering a measure to place impact fees and/or taxes solely on the land developer, I ask you to keep in mind that the developer passes on the cost to the homebuyer or the price of a lot to the consumer. The Flathead Valley's current 34-percent increase in housing costs is largely associated with the cost of the land, not the improvements. In other words, land value is driving the cost of housing. With the addition of impact fees for development, affordable housing is likely to simply disappear.

Impact fees severely affect the median-income earner, or half the population. Many people working full-time jobs with good credit who have qualified for mortgage loans are virtually out of luck—there are no houses available in their price range. Builders are finding it increasingly difficult to build houses for the median-income family and stay in business. A \$100,000 to \$125,000 home is scarce to nonexistent—why? The builder has very little choice: When his costs go up, his price must go up to compensate.

As executive director of Habitat for Humanity of Flathead Valley, I see an even deeper need for affordable housing. As the median income need grows, so grows the need for the lower and very low income working-poor family. When a person earning \$34,000 annually can't afford to buy a decent home, he buys a fixer-upper, quite probably the former home of a lower-income family that can no longer afford it. As local governments and businesses focus on preserving the local beauty and building the community aesthetically (bringing in more malls, theaters, etc.), the standard of living of the poor is adversely affected.

Fees must meet the test of "rational nexus," as described in the Flathead Building Association's positions on growth issues in the Flathead Valley. The roads that we travel each day, the water and sewer facilities we use and share today, plus the schools, fire and police protection that is available to most of us were paid for by those who came before us. They continue to exist because of the community that we are all a part of. How will the average full-time working person have the opportunity to own his or her own home (the American Dream) if we do not share the cost of infrastructure growth and maintenance?

As local governments focus on preserving and improving community aesthetics without making provisions for affordable housing, the poor become significantly displaced. And that in turn creates a greater need for assistance and social services.

It is a fact that children living in a stable home environment do better in school. Homeownership gives families a sense of stability, increased self-esteem and overall well-being. Homeowners have a vested interest in their community, add to the tax rolls and build a financial future for their families. Decent, affordable housing must be made available for everyone. Let's help people break the cycle of poverty by providing every working person/family an opportunity to own or rent an affordable, decent place in which to live.

Jane Leivo
Executive Director
Habitat for Humanity of Flathead Valley

cc: Mayors and city councils/ Kalispell, Whitefish, Columbia Falls

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN MARK E. NOENNIG**, on March 15, 2005 at 3:10 P.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Mark E. Noennig, Chairman (R)
Rep. Hal Jacobson, Vice Chairman (D)
Rep. Wayne Stahl, Vice Chairman (R)
Rep. Elsie Arntzen (R)
Rep. Debby Barrett (R)
Rep. Margaret H. Campbell (D)
Rep. Sue Dickenson (D)
Rep. Emelie Eaton (D)
Rep. Christopher Harris (D)
Rep. Gordon R. Hendrick (R)
Rep. Teresa K. Henry (D)
Rep. Mike Jopek (D)
Rep. Gary MacLaren (R)
Rep. Dave McAlpin (D)
Rep. Tom McGillvray (R)
Rep. Bernie Olson (R)

Members Excused:

Rep. Mary Caferro (D)
Rep. Rick Maedje (R)

Members Absent: None.

Staff Present: Susan Fox, Legislative Branch
Kyanne Kelly, Committee Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: SB 225, 3/10/2005; SB 350,
3/10/2005; SB 472, 3/10/2005
Executive Action: SB 32, SB 40, SB 162, SB 185

HEARING ON SB 350

Opening Statement by Sponsor:

SEN. VICKI COCCHIARELLA (D), SD 47, opened the hearing on **SB 350**,
Revise subdivision review exemptions.
00:00:30

Proponents' Testimony:

00:03:25 Jim Nugent, City of Missoula
[EXHIBIT\(loh57a01\)](#)
00:05:23 Jerry Ballas, Missoula City Council
00:09:15 Jon Wilkens, President Neighborhood Council
00:10:53 Jan Holm, President Neighborhood Council
00:11:17 Ian Lange, Self from Missoula
[EXHIBIT\(loh57a02\)](#)
00:11:44 Linda Stoll, Montana Association of Planners
00:12:01 Fred Bodholt, Self Missoula
00:12:40 Harry Holm, Self Missoula

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

00:13:25

Closing by Sponsor:

00:31:58

REP. CAFERRO entered the room.

HEARING ON SB 225

Opening Statement by Sponsor:

SEN. VICKI COCCHIARELLA (D), SD 47, opened the hearing on **SB 225**,
Revise FDIC levels for local government.
00:34:52

[EXHIBIT\(loh57a03\)](#)

Proponents' Testimony:

00:35:50 Keith Colbo, Independent Bankers
00:40:01 Steve Turkiewicz, Montana Bankers Association
00:40:43 Annie Goodwin, Commissioner of Banker
00:41:06 Harold Blattie, Montana Association of Counties

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

00:42:07

Closing by Sponsor:

00:50:03

HEARING ON SB 472

Opening Statement by Sponsor:

SEN. GARY PERRY (R), SD 35, opened the hearing on SB 472, Revise county jail work program.

00:54:15

Proponents' Testimony:

00:56:39 Jim Cashell, Gallatin County Sheriff
01:00:06 Michael Harris, Gallatin County Legislative
Liaison

[EXHIBIT](#)(loh57a04)

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

01:02:48

Closing by Sponsor:

01:24:14

EXECUTIVE ACTION ON SB 32

Motion: REP. MCGILLVRAY moved that SB 32 BE CONCURRED IN.

Discussion:

01:37:45

Vote: Motion carried 15-3 by voice vote with REP. BARRETT, REP. OLSON, and REP. STAHL voting no. REPS. MAEDJE, CAFFERO, CAMPBELL AND HENDRICK voted by proxy. REP. ARNTZEN to carry.

EXECUTIVE ACTION ON SB 40

Motion: REP. JACOBSON moved that SB 40 BE CONCURRED IN.

Discussion:

01:59:02

Without objection REP. JACOBSON withdrew his motion.

EXECUTIVE ACTION ON SB 162

Motion: REP. JOPEK moved that SB 162 BE CONCURRED IN.

Discussion:

02:08:32

Vote: Motion carried unanimously by voice vote. REPS. MAEDJE, CAFFERO, CAMPBELL AND HENDRICK voted by proxy. REP. MCALPIN to carry.

Motion/Vote: REP. OLSON moved that SB 162 BE PLACED ON THE CONSENT CALENDAR. Motion carried unanimously by voice vote. REPS. MAEDJE, CAFFERO, CAMPBELL AND HENDRICK voted by proxy.

Discussion: To bring SB 40 back up for a vote

02:15:57

EXECUTIVE ACTION ON SB 40

Motion: REP. DICKENSON moved that SB 40 BE CONCURRED IN.

Discussion:

02:17:47

Motion/Vote: REP. STAHL moved that SB 40 BE AMENDED. Motion carried unanimously by voice vote. REPS. MAEDJE, CAFFERO, CAMPBELL AND HENDRICK voted by proxy.

Motion/Vote: REP. JACOBSON moved that SB 40 BE CONCURRED IN AS AMENDED. Motion carried unanimously by voice vote. REPS. MAEDJE, CAFFERO, CAMPBELL AND HENDRICK voted by proxy. REP. STAHL to carry.

EXECUTIVE ACTION ON SB 185

Motion: REP. JOPEK moved that SB 185 BE CONCURRED IN.

Discussion:

02:19:33

Vote: Motion carried 17-1 by voice vote with REP. OLSON voting no. REPS. MAEDJE, CAFFERO, CAMPBELL AND HENDRICK voted by proxy. REP. MACLAREN to carry.

ADJOURNMENT

Adjournment: 5:40 P.M.

REP. MARK E. NOENNIG, Chairman

KYANNE KELLY, Secretary

MN/kk

Additional Exhibits:

EXHIBIT ([loh57aad0.PDF](#))

HOUSE OF REPRESENTATIVES
Roll Call
LOCAL GOVERNMENT COMMITTEE

DATE 3.15.05

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT</u>	<u>EXCUSED</u>
REP. MARK NOENNIG, CHAIR	✓		
REP. HAL JACOBSON, VICE CHAIR	✓		
REP. WAYNE STAHL, VICE CHAIR	✓		
REP. ELSIE ARNTZEN	✓		
REP. DEBBY BARRETT	✓		
REP. MARY CAFERRO			✓
REP. MARGARETT CAMPBELL	✓		
REP. SUE DICKENSON	✓		
REP. EMILIE EATON	✓		
REP. CHRISTOPHER HARRIS	✓		
REP. GORDON HENDRICK	✓		
REP. TERESA HENRY	✓		
REP. MIKE JOPEK	✓		
REP. GARY MacLAREN	✓		
REP. RICK MAEDJE			✓
REP. DAVE McALPIN	✓		
REP. TOM McGILLVRAY	✓		
REP. BERNIE OLSON	✓		



HOUSE STANDING COMMITTEE REPORT

March 16, 2005

Page 1 of 1

Mr. Speaker:

We, your committee on **Local Government** recommend that **Senate Bill 32** (third reading copy - blue) be concurred in.

Signed: _____

Mark E. Noennig
Representative Mark E. Noennig, Chair

To be carried by Representative Elsie Arntzen

- END -

Committee Vote:
Yes 15, No 3.

580840SC.hkh
3/16/05
jbn



HOUSE STANDING COMMITTEE REPORT

March 16, 2005

Page 1 of 1

Mr. Speaker:

We, your committee on **Local Government** recommend that **Senate Bill 162** (third reading copy -- blue) be concurred in and be placed on the consent calendar.

Signed: _____

Mark E. Noennig
Representative Mark E. Noennig, Chair

To be carried by Representative Dave McAlpin

- END -

Committee Vote:

Yes 18, No 0.

580841SC.hkh

3/16/05

jbm



HOUSE STANDING COMMITTEE REPORT

March 16, 2005

Page 1 of 1

Mr. Speaker:

We, your committee on **Local Government** recommend that **Senate Bill 40** (third reading copy - blue) be concurred in as amended.

Signed:

Mark E. Noennig
Representative Mark E. Noennig, Chair

To be carried by Representative Wayne Stahl

And, that such amendments read:

1. Title, line 7.

Strike: "RESOLUTION OF INTENTION TO CREATE THE DISTRICT AND THE"

2. Title, line 9.

Strike: "7-12-2105,"

3. Page 2, line 4 through line 25.

Strike: section 2 in its entirety

Renumber: subsequent sections

- END -

Committee Vote:

Yes 18, No 0.

581001SC.hkh
3/16/05
jbn



HOUSE STANDING COMMITTEE REPORT

March 16, 2005

Page 1 of 1

Mr. Speaker:

We, your committee on **Local Government** recommend that **Senate Bill 185** (third reading copy -- blue) be concurred in.

Signed: _____

Mark E. Noennig
Representative Mark E. Noennig, Chair

To be carried by Representative Gary MacLaren

- END -

Committee Vote:
Yes 17, No 1.

581002SC.hkh

3/16/05
jbn

COMMITTEE PROXY

DATE: 3-15-05

I request to be excused from the _____

Committee because of other commitments. I desire to leave my proxy vote with:

Mark Jacobsen

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

HOUSE BILL/AMENDMENT AYE NO

S.B. 32	X	
S.B. 102	X	
S.B. 102 Cols	X	
Amel. S.B. 40	X	
S.B. 40 AS Am.	X	
S.B. 185	X	

SENATE BILL/AMENDMENT AYE NO

Rep./Sen.

(Signature)

Mary Capern

COMMITTEE PROXY

DATE: 3-15-05

I request to be excused from the Local Gov't

Committee because of other commitments. I desire to leave my proxy vote with:

Rep. Hel Jacobson

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

HOUSE BILL/AMENDMENT

AYE NO

S.B. 32	X	
S.B. 1002	X	
S.B. 102 CONS.	X	
AMEND. S.B. 40	X	
S.B. 40 AS AM.	X	
S.B. 185	X	

SENATE BILL/AMENDMENT

AYE NO

Rep./Sen. Margaret Crum
(Signature)

COMMITTEE PROXY

DATE: MAR 15 2005

I request to be excused from the Judge Court

Committee because of other commitments. I desire to leave my proxy vote with:

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

HOUSE BILL/AMENDMENT AYE NO

HB 32	✓	
HB 162	✓	
AMENDSB40	✓	
SB 40 Amendment	✓	
SB 195	✓	

SENATE BILL/AMENDMENT AYE NO

Rep./Sen. Dorothy R. Hume
(Signature)

COMMITTEE PROXY

DATE MAR 15 2005

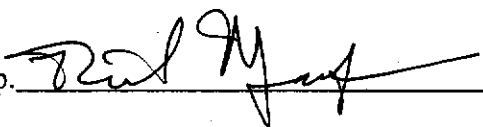
I request to be excused from the MAEDJE RICK LOCAL GOVT.
Committee meeting this date because of other commitments. I desire to leave my proxy vote
with _____

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and
number under the bill and indicate a separate vote for each amendment.

HOUSE BILL/ AMENDMENT AYE NO

SENATE BILL/AMENDMENT AYE NO

HB 32	✓	
HB 162	✓	
Amendment	✓	
SB 40A Amm	✓	
SR 185	✓	

Rep. 

(Signature)

VISITORS REGISTER

Montana

House of Representatives

Local Government Committee

Bill Number: SB 225

Date: 3/15/05

Please print ~ Please print ~ Please print ~ Please print

Name	Representing	Support	Oppose	Informational
ANNIE Goonwin	DOA	X		
Keith Colbo	MIB	X		
Steve Turkiewicz	MBA	X		
Gary Amosky	Richland Economic Development Corporation	X		
HAROLD Blattes	WACO	X		

Please leave prepared testimony with Committee Secretary. Witness
Statement forms are available if you care to submit written testimony.

VISITORS REGISTER

Montana

House of Representatives

Local Government Committee

Bill Number: SB 472

Date: 3/15/05

Please print ~ Please print ~ Please print ~ Please print

Name	Representing	Support	Oppose	Informational
Milakhan's	Call. County	☒		
Jim Caspell	GALLATIN SHERIFF	☒		
JIM OBATHOFEN	GALLATIN COUNTY	☒		
HAROLD Blattie-	MACO	☒		

Please leave prepared testimony with Committee Secretary. Witness Statement forms are available if you care to submit written testimony.

VISITORS REGISTER

Montana

House of Representatives

Local Government Committee

Bill Number: SB 350

Date: 3/15/05

Please print ~ Please print ~ Please print ~ Please print

Name	Representing	Support	Oppose	Informational
Jon D. Wilkins	Missoula	X		
Harold Hoem	"	X		
Jan Hoem	"	X		
Ian Lange	"	X		
FRED BODHOLT	"	X		
JERRY BALLAS	MISSOULA	X		
Jim Nugent	CITY OF MISSOULA	X		
LINDA STOLL	MT ASSN ⁹¹ PLANNERS	✓		
HAROLD BLATTIE	MACO	✓		
Jani McCall	City of Billings	✓		

Please leave prepared testimony with Committee Secretary. Witness Statement forms are available if you care to submit written testimony.

HOUSE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2005

HOUSE JOURNAL
59TH LEGISLATURE
FIFTY-NINTH LEGISLATIVE DAY

Helena, Montana
March 17, 2005

House Chambers
State Capitol

House convened at 8:00 a.m. Mr. Speaker in the Chair. Invocation by Rep. Galvin-Halcro. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Representative Lange, excused. Quorum present.

Gregg Trude spoke to the House and gave an update on Tsunami relief efforts.

Terry Johnson and Clayton Schenk from the Legislative Fiscal Division gave presentations on House Bill 2.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 236 passed as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, Becker, Bergren, Bixby, Branae, D. Brown, R. Brown, Butcher, Buzzas, Caferro, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Everett, Facey, Franklin, Furey, Gallik, Galvin-Halcro, Glaser, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Hawk, Heinert, Hendrick, Henry, Himmelberger, Hiner, Jackson, Jacobson, Jayne, L. Jones, W. Jones, Jopek, Juneau, Kaufmann, Keane, Klock, Koopman, Lake, Lambert, Lenhart, Lindeen, MacLaren, Maedje, Malcolm, McAlpin, McGillvray, McKenney, McNutt, Mendenhall, Milburn, Morgan, Musgrove, Noonan, A. Olson, B. Olson, Parker, Peterson, Raser, Rice, Ripley, Roberts, Ross, Sales, Sesso, Sinrud, Small-Eastman, Sonju, Stahl, Stoker, Taylor, Villa, Wagman, Waitschies, Wanzenried, Ward, Warden, Wells, Wilson, Windham, Windy Boy, Wiseman, Witt, Mr. Speaker.
Total 97

Noes: None.
Total 0

Excused: Lange.
Total 1

Absent or not voting: Jent, Noennig.
Total 2

HB 385 passed as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, Becker, Branae, D. Brown, R. Brown, Butcher, Buzzas, Callahan, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Everett, Facey, Gallik, Glaser, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Hawk, Heinert, Hendrick, Himmelberger, Hiner, Jackson, Jacobson, Jent, L. Jones, W. Jones, Jopek, Keane, Klock, Koopman, Lake, Lambert, Lenhart, Lindeen, MacLaren, Maedje, Malcolm, McAlpin, McGillvray, McKenney, McNutt, Mendenhall, Milburn, Morgan, Musgrove, Noonan, A. Olson, B. Olson, Parker, Peterson, Raser, Rice, Ripley, Roberts, Ross, Sales, Sesso, Sinrud, Small-Eastman, Sonju, Stahl, Stoker, Taylor, Villa, Wagman, Waitschies, Wanzenried, Ward, Warden, Wells, Wilson, Windy Boy, Wiseman, Witt, Mr. Speaker.
Total 86

Noes: Bergren, Bixby, Caferro, Campbell, Franklin, Furey, Galvin-Halcro, Henry, Jayne, Juneau, Kaufmann, Windham.
Total 12

HOUSE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2005

Excused: Lange.
Total 1

Absent or not voting: Noennig.
Total 1

HB 406 passed as follows:

Ayes: Andersen, Arntzen, Barrett, Becker, Bergren, Bixby, Branae, R. Brown, Butcher, Buzzas, Caferro, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Everett, Facey, Franklin, Furey, Gallik, Galvin-Halcro, Glaser, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Hendrick, Henry, Himmelberger, Hiner, Jackson, Jacobson, Jayne, L. Jones, W. Jones, Jopek, Juneau, Kaufmann, Keane, Klock, Lenhart, Lindeen, MacLaren, McAlpin, McGillvray, McNutt, Mendenhall, Musgrove, Noonan, A. Olson, Parker, Peterson, Raser, Rice, Ripley, Roberts, Ross, Sales, Sesso, Small-Eastman, Sonju, Stahl, Taylor, Villa, Wagman, Wanzenried, Ward, Warden, Wells, Wilson, Windham, Windy Boy, Wiseman, Witt, Mr. Speaker.
Total 81

Noes: Balyeat, D. Brown, Hawk, Heinert, Koopman, Lake, Lambert, Maedje, Malcolm, McKenney, Milburn, Morgan, B. Olson, Sinrud, Stoker, Waitschies.
Total 16

Excused: Lange.
Total 1

Absent or not voting: Jent, Noennig.
Total 2

HB 475 passed as follows:

Ayes: Andersen, Becker, Bergren, Bixby, Branae, D. Brown, Buzzas, Caferro, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Facey, Furey, Galvin-Halcro, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Hendrick, Henry, Hiner, Jackson, Jacobson, L. Jones, W. Jones, Jopek, Juneau, Kaufmann, Keane, Klock, Lake, Lambert, Lenhart, Lindeen, McAlpin, McKenney, McNutt, Morgan, Musgrove, Noonan, A. Olson, Parker, Peterson, Raser, Ripley, Roberts, Ross, Sesso, Small-Eastman, Stahl, Stoker, Taylor, Villa, Wanzenried, Ward, Windy Boy, Wiseman, Witt, Mr. Speaker.
Total 66

Noes: Arntzen, Balyeat, Barrett, R. Brown, Butcher, Everett, Franklin, Gallik, Glaser, Hawk, Heinert, Himmelberger, Jayne, Koopman, MacLaren, Maedje, Malcolm, McGillvray, Mendenhall, Milburn, Noennig, B. Olson, Rice, Sales, Sinrud, Sonju, Wagman, Waitschies, Warden, Wells, Wilson, Windham.
Total 32

Excused: Lange.
Total 1

Absent or not voting: Jent.
Total 1

HB 513 passed as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, Becker, Bergren, Bixby, Branae, D. Brown, R. Brown, Butcher, Buzzas, Caferro, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Facey, Franklin, Furey, Gallik, Galvin-Halcro, Glaser, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Hawk, Heinert, Hendrick, Henry, Himmelberger, Hiner, Jackson, Jacobson, Jayne, L. Jones, W. Jones, Jopek, Juneau, Kaufmann, Keane, Klock, Lambert, Lenhart, Lindeen, MacLaren, Maedje, Malcolm, McAlpin, McGillvray, McKenney, McNutt, Mendenhall, Milburn, Morgan, Musgrove, Noennig, Noonan, A. Olson, B. Olson, Parker, Peterson, Raser, Ripley, Roberts, Ross, Sesso, Small-Eastman, Sonju, Stahl, Stoker, Taylor, Villa, Wagman, Waitschies, Wanzenried, Ward, Warden, Wilson, Windham, Windy Boy, Wiseman, Witt, Mr. Speaker.
Total 91

HOUSE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2005

Noes: Everett, Koopman, Lake, Rice, Sales, Sinrud, Wells.
Total 7

Excused: Lange.
Total 1

Absent or not voting: Jent.
Total 1

HB 672 passed as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, Becker, Bergren, Bixby, Branae, D. Brown, R. Brown, Butcher, Buzzas, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Everett, Facey, Franklin, Furey, Gallik, Galvin-Halcro, Glaser, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Hawk, Heinert, Hendrick, Henry, Himmelberger, Hiner, Jackson, Jacobson, Jayne, Jent, L. Jones, W. Jones, Jopek, Keane, Klock, Koopman, Lake, Lambert, Lenhart, Lindeen, MacLaren, Maedje, Malcolm, McAlpin, McGillvray, McKenney, McNutt, Mendenhall, Milburn, Morgan, Musgrove, Noennig, Noonan, A. Olson, B. Olson, Parker, Peterson, Raser, Rice, Ripley, Roberts, Ross, Sales, Sesso, Sinrud, Small-Eastman, Sonju, Stahl, Stoker, Taylor, Villa, Wagman, Waitschies, Wanzenried, Ward, Warden, Wells, Wilson, Windham, Windy Boy, Wiseman, Witt, Mr. Speaker.
Total 96

Noes: Caferro, Juneau, Kaufmann.
Total 3

Excused: Lange.
Total 1

Absent or not voting: None.
Total 0

HB 700 passed as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, Becker, Bergren, Bixby, Branae, D. Brown, R. Brown, Butcher, Buzzas, Caferro, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Everett, Facey, Franklin, Furey, Galvin-Halcro, Glaser, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Hawk, Heinert, Hendrick, Henry, Himmelberger, Hiner, Jackson, Jacobson, Jayne, Jent, L. Jones, W. Jones, Jopek, Juneau, Kaufmann, Keane, Klock, Koopman, Lake, Lambert, Lenhart, Lindeen, MacLaren, Maedje, Malcolm, McAlpin, McGillvray, McKenney, McNutt, Mendenhall, Milburn, Morgan, Musgrove, Noennig, Noonan, A. Olson, B. Olson, Parker, Peterson, Raser, Rice, Ripley, Roberts, Ross, Sales, Sesso, Sinrud, Small-Eastman, Sonju, Stoker, Taylor, Villa, Wagman, Waitschies, Wanzenried, Ward, Warden, Wells, Wilson, Windham, Windy Boy, Wiseman, Witt, Mr. Speaker.
Total 97

Noes: Gallik, Stahl.
Total 2

Excused: Lange.
Total 1

Absent or not voting: None.
Total 0

HB 721 passed as follows:

Ayes: Andersen, Arntzen, Becker, Bergren, Bixby, Branae, Butcher, Buzzas, Caferro, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Facey, Franklin, Furey, Gallik, Galvin-Halcro, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Heinert, Henry, Hiner, Jackson, Jacobson, Jent, L. Jones, W. Jones, Jopek, Juneau, Kaufmann, Keane, Klock, Lenhart, Lindeen, MacLaren, Maedje, Malcolm, McAlpin, McGillvray, McKenney, McNutt, Mendenhall, Milburn, Musgrove, Noennig, Noonan, A. Olson, B. Olson, Parker, Peterson,

HOUSE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2005

Raser, Ripley, Roberts, Ross, Sesso, Sinrud, Small-Eastman, Stoker, Taylor, Villa, Wagman, Waitschies, Wanzenried, Ward, Warden, Wilson, Windham, Windy Boy, Wiseman, Witt, Mr. Speaker.
Total 80

Noes: Balyeat, Barrett, D. Brown, R. Brown, Everett, Glaser, Hawk, Hendrick, Himmelberger, Jayne, Koopman, Lake, Lambert, Morgan, Rice, Sales, Sonju, Stahl, Wells.
Total 19

Excused: Lange.
Total 1

Absent or not voting: None.
Total 0

HJR 2 adopted as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, Becker, Bergren, Bixby, Branae, D. Brown, R. Brown, Butcher, Buzzas, Caferro, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Everett, Facey, Franklin, Furey, Gallik, Galvin-Halcro, Glaser, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Hawk, Heinert, Hendrick, Henry, Himmelberger, Hiner, Jackson, Jacobson, Jayne, Jent, L. Jones, W. Jones, Jopek, Juneau, Kaufmann, Keane, Klock, Lake, Lambert, Lenhart, Lindeen, MacLaren, Malcolm, McAlpin, McGillvray, McKenney, McNutt, Milburn, Musgrove, Noennig, Noonan, A. Olson, B. Olson, Parker, Peterson, Raser, Rice, Ripley, Roberts, Ross, Sesso, Small-Eastman, Sonju, Stoker, Taylor, Villa, Wagman, Waitschies, Wanzenried, Ward, Warden, Wilson, Windham, Windy Boy, Wiseman, Witt, Mr. Speaker.
Total 91

Noes: Koopman, Maedje, Mendenhall, Morgan, Sales, Sinrud, Stahl, Wells.
Total 8

Excused: Lange.
Total 1

Absent or not voting: None.
Total 0

Rep. Bergren announced the House Democrats will caucus.
Rep. Brown announced the House Republicans will caucus.
Speaker Matthews stated the House will stand at ease until 9:20 a.m.

COMMUNICATIONS AND PETITIONS

Chief Clerk Marilyn Miller read a letter Speaker Matthews received from Democratic Leader Dave Wanzenried dated March 16, 2005, stating that pursuant to H30-50(5) House Democrats would like to exercise one of their twelve silver bullets, asking that HB 745 be placed on the agenda for 2nd reading in time to meet all applicable deadlines.

REPORTS OF STANDING COMMITTEES

BILLS (Barrett, Chairman): 3/17/2005
Correctly printed: **HB 22, HB 169, HB 368, HB 470, HB 536, HB 577, HB 673, HB 752.**
Correctly engrossed: **HB 60, HB 102, HB 181, HB 364, HB 584, HB 625, HB 728, HB 745, HB 758.**
Examined by the sponsor and found to be correct: **HB 50, HB 54, HB 116, HB 147, HB 157, HB 161, HB 180, HB 209, HB 285, HB 557, HJR 29.**
Signed by the Chief Clerk of the House at 4:00 p.m., March 15, 2005: **HB 20, HB 79, HB 86, HB 114, HB 131, HB 155, HB 161, HB 183, HB 184, HB 187, HB 198, HB 207, HB 242, HB 298, HB 347, HB 350, HB 354, HB 397, HB 400, HB 401, HB 508, HB 564, HB 598, HB 612.**

HOUSE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2005

Signed by the Speaker at 10:00 a.m., March 16, 2005: **HB 20, HB 79, HB 86, HB 114, HB 131, HB 155, HB 183, HB 184, HB 187, HB 198, HB 207, HB 242, HB 298, HB 347, HB 350, HB 354, HB 397, HB 400, HB 401, HB 508, HB 564, HB 598, HB 612.**

Signed by the President at 3:55 p.m., March 16, 2005: **HB 20, HB 79, HB 86, HB 114, HB 131, HB 155, HB 183, HB 184, HB 187, HB 198, HB 207, HB 242, HB 298, HB 347, HB 350, HB 354, HB 397, HB 400, HB 401, HB 508, HB 564, HB 598, HB 612.**

Delivered to the Governor at 7:20 a.m., March 17, 2005: **HB 20, HB 79, HB 86, HB 114, HB 131, HB 155, HB 183, HB 184, HB 187, HB 198, HB 207, HB 242, HB 298, HB 347, HB 350, HB 354, HB 397, HB 400, HB 401, HB 508, HB 564, HB 598, HB 612.**

Signed by the Chief Clerk of the House at 4:25 p.m., March 16, 2005: **HB 39, HB 54, HB 81, HB 82, HB 158, HB 224, HB 273, HB 437, HB 557, HJR 13, HJR 29.**

Signed by the Speaker at 5:00 p.m., March 16, 2005: **HB 39, HB 54, HB 81, HB 82, HB 158, HB 224, HB 273, HB 437, HB 557, HJR 13, HJR 29.**

Signed by the President at 8:50 a.m., March 17, 2005: **HB 39, HB 54, HB 81, HB 82, HB 158, HB 224, HB 273, HB 437, HB 557, HJR 13, HJR 29.**

Delivered to the Governor for approval at 7:40 a.m., March 17, 2005: **HB 39, HB 54, HB 81, HB 82, HB 158, HB 224, HB 273, HB 437, HB 557.**

Delivered to the Secretary of State at 9:40 a.m., March 17, 2005: **HJR 13, HJR 29.**

APPROPRIATIONS (Buzzas, Chairman):
HB 60, introduced bill, be amended as follows:

3/17/2005

1. Page 1, line 30.

Following: "structure"

Insert: "used as a clandestine methamphetamine drug lab"

2. Page 2, line 22.

Following: "the"

Insert: "assessment or"

3. Page 2, line 27.

Following: "may"

Strike: "assess"

Insert: "adopt rules to provide for the assessment of"

4. Page 2, line 29.

Following: "cause."

Insert: "The rules may provide for the assessment of reasonable fees to cover the cost of the contractor certification program."

5. Page 3, line 12 through line 14.

Following: "(2)"

Strike: "AN" on line 12 through "[SECTION 4]" on line 14

Insert: "With the exception of an owner or an owner's agent who caused the methamphetamine contamination, an owner or an owner's agent who has submitted documentation to the department by a contractor who is certified pursuant to [section 4] that the inhabitable property has been remediated to the standards established in [section 3] or submits documentation by a certified contractor that the property meets the decontamination standards without decontamination and who receives notification from the department confirming the contamination has been satisfactorily addressed"

6. Page 3, line 24 through line 27.

Strike: "An" on line 24 through "[section 4]." on line 27

Insert: "Upon confirmation by the department that an inhabitable property has been properly remediated to the standards established in [section 3] or that the inhabitable property meets the decontamination standards without decontamination, the department shall remove the inhabitable property from the list required in subsection (2).

7. Page 3, line 28.

Strike: "notify"

HOUSE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2005

Insert: "provide written notification to"
Following: "officer"
Insert: "and the property owner of record"
Following: "properly"
Insert: "assessed or"

8. Page 3, line 30.

Following: line 29

Insert: "(4) The department may adopt rules establishing reasonable requirements for the sufficiency of documentation to be provided by a certified contractor."

Renumber: subsequent subsections

9. Page 4, line 10.

Following: "codified"

Strike: remainder of line 10

Insert: "in Title 75, chapter 10."

And, as amended, do pass. Report adopted.

HB 102, introduced bill, be amended as follows:

1. Title, page 1, line 7.

Strike: "AND THE A STATE SPECIAL REVENUE ACCOUNT"

2. Page 5, line 23.

Strike: "appropriations"

Insert: "appropriation"

And, as amended, do pass. Report adopted.

HB 148, introduced bill, do pass and be placed on the consent calendar. Report adopted.

HB 181, introduced bill, be amended as follows:

1. Page 12, line 7.

Strike: "\$1,650,000"

Insert: "\$1,680,000"

And, as amended, do pass. Report adopted.

HB 414, introduced bill, do pass and be placed on the consent calendar. Report adopted.

3/17/2005

HB 745, introduced bill, be amended as follows:

1. Page 2, line 2.

Strike: "\$40,000"

Insert: "\$135,123"

2. Page 2, line 19 through line 20.

Strike: "estimated" on line 19 through "legislature" on line 20

Insert: "needed to make statutorily determined payments to school district BASE aid, with current House Bill No. 2 general fund BASE aid appropriation authority"

Following: "aid" on line 20

Insert: "general fund"

3. Page 2, line 21 through line 23.

Strike: "of the difference" on line 21 through "account" on line 23

Insert: "needed to make statutorily determined payments to school district BASE aid, with current House Bill No. 2 general fund BASE aid"

HOUSE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2005

4. Page 2, line 25.
Strike: "\$25,846,341"
Insert: "\$21,006,994"

And, as amended, without recommendation. Report adopted.

BUSINESS AND LABOR (Keane, Chairman):

3/17/2005

SB 254, be concurred in and placed on the consent calendar. Report adopted.
SB 274, be concurred in. Report adopted.
SB 317, be amended as follows:

1. Title, line 10.
Strike: the first "AND"
Insert: ", "
Following: "35-2-617,"
Insert: "AND 35-2-722,"

2. Page 2, line 12.
Following: "PUBLIC ASSETS"
Insert: "and the proceeds of public assets"

3. Page 2, line 20.
Strike: "EXERCISE"
Insert: "transfer"

4. Page 3, line 4 and line 5.
Strike: "NEGOTIABLE" on line 4 through "30-3-104" on line 5
Insert: "but not limited to stocks, shares, bonds, notes, evidences of indebtedness, negotiable instruments, or an ownership interest in an entity"

5. Page 3, line 13.
Strike: "OR"
Insert: "(xi) any transfer of assets between a nonprofit health entity that is a nonprofit public benefit corporation and a nonprofit mutual benefit corporation in which all of the members are nonprofit public benefit corporations, provided that the management of all assets transferred by a nonprofit public benefit corporation in a transaction described in this subsection (3)(c)(xi) continue to be managed in a manner consistent with the public benefit purpose of the transferring nonprofit public benefit corporation; or"
Renumber: subsequent subsection

6. Page 3, line 20.
Following: the first "ASSETS"
Insert: "or the proceeds of public assets"

7. Page 4, line 10.
Following: "COMPORTS"
Insert: "with"
Strike: "ON"
Insert: "of"

8. Page 5, line 7.
Following: "(1)"
Insert: "(a)"

9. Page 5, line 8.
Following: "respect to"
Insert: "the assets of any public benefit corporation, to"
Following: "charity,"
Insert: "or"

HOUSE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2005

10. Page 5, line 9 and 10.

Following: "part 5" on line 9

Strike: ", or to" on line 9 through "35-7-722" on line 10

11. Page 5.

Following: line 10

Insert: "(b) Filing of an application under [sections 1 through 18] satisfies any notice requirements under 35-2-609, 35-2-617, or 35-2-722."

12. Page 5, line 11 through line 13.

Strike: subsection (2) in its entirety

Insert: "(2) (a)(i) Nothing in [sections 1 through 18] precludes the attorney general, the commissioner, or a nonprofit health entity from filing an action in district court under Title 27, chapter 8, seeking a declaration that a nonprofit health entity transaction is or is not a conversion transaction as defined in [section 1] or a declaration of whether assets of a nonprofit health entity are or are not public assets as defined in [section 1]. No other declaratory relief may be sought in a court regarding any issue arising from a transaction that is or is alleged to be a conversion transaction under [sections 1 through 18], except that a transferor or transferee may file an action in district court seeking an injunction prohibiting the attorney general or commissioner from making an unlawful disclosure of trade secrets or proprietary or other confidential information.

(ii) In an action under this subsection (2) to determine whether assets of a nonprofit health entity are or are not public assets, the presumption in [section 13(3)] applies.

(b) The commissioner or the attorney general, or both, may contract with experts as reasonably necessary to bring or defend an action pursuant to this subsection (2) and the nonprofit health entity shall pay the costs reasonably incurred by the commissioner or the attorney general for the experts' services.

(c) In an action under this subsection (2), if the court finds that the transaction is a conversion transaction subject to [sections 1 through 18] and the transaction has not been completed, the court shall enter an injunction prohibiting any further actions to complete the transaction until it has been approved by the commissioner and attorney general under [section 2].

(d) In an action under this subsection (2), if the court finds that a completed transaction was a conversion transaction that the commissioner and attorney general have not approved under [section 2], the court shall enter an injunction requiring the nonprofit health entity or any successor to the assets involved in the transaction to submit an application for review under [section 5]. After reviewing any application submitted following a court order under this subsection (2)(d), the attorney general may direct that the nonprofit health entity or any successor to the assets involved in the transaction distribute the fair market value of any public assets involved in the transaction as required under [section 18].

(e) The court issuing the declaratory judgment retains jurisdiction to enforce any direction by the attorney general for distribution of the fair market value of public assets under this subsection (2).

(3) [Sections 1 through 18] may not be construed to make void or voidable or to require any distribution of assets with respect to any transaction or series of transactions completed before [the effective date of this act], even if that transaction or series of transactions is considered as part of a conversion transaction completed on or after [the effective date of this act]."

13. Page 8, line 17.

Following: "ATTORNEY GENERAL"

Insert: "or a court pursuant to [section 4]"

14. Page 9, line 27.

Following: "ATTORNEY GENERAL"

Insert: "or a court pursuant to [section 4]"

15. Page 11, line 12.

Strike: "The"

Insert: "Except as provided in subsection (5), the"

16. Page 11, line 24.

Strike: "for-profit company and its"

Insert: "parties to the conversion transaction and their"

HOUSE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2005

17. Page 12, line 3.

Strike: the first "the for-profit entity"

Insert: "any party to the conversion transaction"

Strike: the second "the for-profit entity"

Insert: "a party to the conversion transaction"

18. Page 12, line 23.

Insert: "(5) Notwithstanding any other provision of this section, the proceeds of a conversion transaction that are public assets of a nonprofit mutual benefit corporation in which all of the members are nonprofit public benefit corporations may be distributed to the member nonprofit public benefit corporations if the articles of incorporation of the nonprofit mutual benefit corporation provide for that distribution."

19. Page 13, line 25 through 28.

Following: "[sections 1 through 18]. " on line 25

Strike: remainder of line 25 through "corporation." on line 28

20. Page 15, line 9.

Insert: "Section 21. Section 35-2-722, MCA, is amended to read:

"**35-2-722. Notices to the attorney general.** (1) ~~Except as provided in subsection (4),~~ a public benefit corporation or religious corporation shall give the attorney general written notice that it intends to dissolve at or before the time it delivers articles of dissolution to the secretary of state. The notice must include a copy or summary of the plan of dissolution.

(2) Assets may not be transferred or conveyed by a public benefit corporation or religious corporation as part of the dissolution process until 20 days after it has given the written notice required by subsection (1) to the attorney general or until the attorney general has consented in writing to the dissolution or indicated in writing that he will not take action in respect to the transfer or conveyance, whichever is earlier.

(3) When all or substantially all of the assets of a public benefit corporation have been transferred or conveyed following approval of dissolution, the board shall deliver to the attorney general a list showing those, other than creditors, to whom the assets were transferred or conveyed. The list must indicate the address of each person, other than creditors, who received assets and indicate what assets each received.

(4) A public benefit corporation or religious corporation that is considered a nonprofit health entity, as defined in [section 1], is subject to the provisions of [sections 1 through 18]. "

Renumber: subsequent sections

21. Page 15, line 17.

Following: "transaction"

Insert: "or any individual transaction or series of transactions"

And, as amended, be concurred in. Report adopted.

SB 329, be concurred in. Report adopted.

LOCAL GOVERNMENT (Noennig, Chairman):

SB 32, be concurred in. Report adopted.

3/17/2005

SB 40, be amended as follows:

1. Title, line 7.

Strike: "RESOLUTION OF INTENTION TO CREATE THE DISTRICT AND THE"

2. Title, line 9.

Strike: "7-12-2105,"

3. Page 2, line 4 through line 25.

Strike: section 2 in its entirety

Renumber: subsequent sections

And, as amended, be concurred in. Report adopted.

HOUSE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2005

SB 162, be concurred in and placed on the consent calendar. Report adopted.
SB 185, be concurred in. Report adopted.

STATE ADMINISTRATION (Jent, Chairman):

3/17/2005

HB 633, do pass. Report adopted.
HB 780, do pass. Report adopted.
SB 62, be concurred in. Report adopted.
SB 118, be amended as follows:

1. Title, page 1, line 17.

Following: "MCA;"

Strike: "AND"

2. Title, page 1, line 19.

Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

3. Page 4, line 3.

Following: "DEPARTMENT"

Insert: "of military affairs"

4. Page 4, line 8.

Strike: "A DEPARTMENT EMPLOYEE"

Insert: "an employee of the department of military affairs"

5. Page 4, line 9.

Strike: "A DEPARTMENT EMPLOYEE"

Insert: "an employee of the department of military affairs"

6. Page 7, line 9.

Following: "complainant"

Insert: "and the employer in writing"

7. Page 13.

Following: line 28

Insert: "NEW SECTION. Section 30. Effective date. [This act] is effective on passage and approval."

And, as amended, be concurred in. Report adopted.

SB 182, be concurred in. Report adopted.

SB 206, be concurred in. Report adopted.

TAXATION (Waitschies, Chairman):

3/17/2005

HB 625, introduced bill, be amended as follows:

1. Title, page 1, line 7 through line 8.

Strike: "REQUIREMENT" on line 7

Insert: "REQUIREMENTS"

Strike: "DELETING" on line 7 through "FOR" on line 8

2. Page 2.

Following: line 15

Insert: "(b) has, prior to designation by the department of commerce, a population of less than 5,500 according to the most recent federal census or federal estimate;"

Renumber: subsequent subsections

And, as amended, do pass. Report adopted.

HOUSE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2005

HB 758, introduced bill, be amended as follows:

1. Title, page 1, line 9, through page 1, line 12.

Strike: "STATUTORILY" on line 9 through "COUNTY;" on line 12

2. Title, page 1, line 14.

Following: the first "and"

Strike: "17-7-502,"

Insert: "15-36-332,"

Strike: "IMMEDIATE"

3. Page 1, lines 19 and 20.

Strike: "The oil" on line 19

Insert: "Oil"

Following: "account" on line 19

Strike: remainder of line 19 through "appropriation" on line 20

4. Page 1, line 20.

Strike: "(1)"

5. Title, page 1, line 22.

Strike: "Interest" through "account."

6. Page 1, line 23 through line 24.

Strike: subsection (2) in its entirety

7. Page 1, line 26 through page 2, line 4.

Strike: section 2 in its entirety

Renumber: subsequent sections

8. Page 11.

Following: line 18

Insert: "Section 5. Section 15-36-332, MCA, is amended to read:

"15-36-332. Distribution of taxes to taxing units -- appropriation. (1) (a) By the dates referred to in subsection (6), the department shall distribute oil and natural gas production taxes allocated under 15-36-331(3) to each eligible county.

(b) By the dates referred to in subsection (6), the department shall distribute the amount deposited in the oil, gas, and coal natural resource account under 15-36-331(2)(b) as provided in subsection (8).

(2) (a) Each county treasurer shall distribute the amount of oil and natural gas production taxes designated under subsection (1), including the amounts referred to in subsection (2)(b), to the countywide elementary and high school retirement funds, countywide transportation funds, and eligible school districts according to the following schedule:

	Elementary Retirement	High School Retirement	Countywide Transportation	School Districts
Big Horn	14.81%	10.36%	2.99%	26.99%
Blaine	5.86%	2.31%	2.71%	24.73%
Carbon	3.6%	6.62%	1.31%	49.18%
Chouteau	8.1%	4.32%	3.11%	23.79%
Custer	6.9%	3.4%	1.19%	31.25%
Daniels	0	7.77%	3.92%	48.48%
Dawson	5.53%	2.5%	1.11%	35.6%
Fallon	0	7.63%	1.24%	42.58%
Fergus	7.88%	4.84%	2.08%	53.25%
Garfield	4.04%	3.13%	5.29%	26.19%
Glacier	11.2%	4.87%	3.01%	46.11%
Golden Valley	0	11.52%	2.77%	54.65%
Hill	6.7%	4.07%	1.59%	49.87%
Liberty	4.9%	4.56%	1.15%	35.22%

HOUSE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2005

McCone	4.18%	3.19%	2.58%	43.21%
Musselshell	5.98%	4.07%	3.53%	32.17%
Petroleum	0	11.92%	4.59%	55.48%
Phillips 0.43%	6.6%	1.08%	41.29%	
Pondera	6.96%	5.06%	1.94%	45.17%
Powder River	3.96%	2.97%	4.57%	22.25%
Prairie 0	8.88%	1.63%	36.9%	
Richland	4.1%	3.92%	2.26%	43.77%
Roosevelt	9.93%	7.37%	2.74%	40.94%
Rosebud	3.87%	2.24%	1.05%	72.97%
Sheridan	0	3.39%	2.22%	47.63%
Stillwater	6.87%	4.86%	1.63%	41.16%
Sweet Grass	6.12%	6.5%	2.4%	37.22%
Teton 6.88%	8.19%	3.8%	29.43%	
Toole 2.78%	4.78%	1.3%	43.56%	
Valley 2.26%	12.61%	4.63%	41.11%	
Wibaux 0	4.1%	0.77%	31.46%	
Yellowstone	7.98%	4.56%	1.07%	52.77%
All other counties	3.81%	7.84%	1.81%	41.04%

(b) (i) The county treasurer shall distribute 9.8% of the Custer County share to the countywide community college district in Custer County.

(ii) The county treasurer shall distribute 14.5% of the Dawson County share to the countywide community college district in Dawson County.

(3) The remaining oil and natural gas production taxes for each county must be used for the exclusive use and benefit of the county, including districts within the county established by the county.

(4) (a) The county treasurer shall distribute oil and natural gas production taxes to school districts in each county referred to in subsection (2) as provided in subsections (4)(b) through (4)(d).

(b) The amount distributed to each K-12 district within the county is equal to oil and natural gas production taxes in the county multiplied by the ratio that oil and natural gas production taxes attributable to oil and natural gas production in the K-12 school district bear to total oil and natural gas production taxes attributable to total oil and natural gas production in the county and multiply that amount by the school district percentage figure for the county referred to in subsection (2)(a).

(c) For the amount to be distributed to each elementary school district and to each high school district under subsection (4)(d), the department shall first determine the amount of oil and natural gas taxes in the high school district that is attributable to oil and natural gas production in each elementary school district that is located in whole or in part within the exterior boundaries of a high school district and multiply that amount by the school district percentage figure for the county referred to in subsection (2)(a).

(d) (i) The amount distributed to each elementary school district that is located in whole or in part within the exterior boundaries of a high school district is equal to the amount determined in subsection (4)(c) multiplied by the ratio that the total mills of the elementary school district bear to the sum of the total mills of the elementary school district and the total mills of the high school district.

(ii) The amount distributed to the high school district is equal to the amount determined in subsection (4)(c) multiplied by the ratio that the total mills of the high school district bear to the sum of the total mills of each elementary school district referred to in subsection (4)(c) and the total mills of the high school district.

(5) (a) Oil and natural gas production taxes calculated for each school district under subsections (4)(b) through (4)(d) must be distributed to each school district in the relative proportion of the mill levy for each fund.

(b) If a distribution under subsection (5)(a) exceeds the total budget for a school district fund, the board of trustees of an elementary or high school district may reallocate the excess to any budgeted fund of the school district.

(6) The department shall remit the amounts to be distributed in this section to the county treasurer by the following dates:

(a) On or before August 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending March 31 of the current year.

(b) On or before November 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending June 30 of the current year.

(c) On or before February 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending September 30 of the previous year.

(d) On or before May 1 of each year, the department shall remit to the county treasurer oil and natural gas

HOUSE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2005

production tax payments received for the calendar quarter ending December 31 of the previous year.

(7) The department shall provide to each county by May 31 of each year the amount of gross taxable value represented by all types of production taxed under 15-36-304 for the previous calendar year multiplied by 60%. The resulting value must be treated as taxable value for county classification purposes under 7-1-2111.

(8) The department shall distribute the funds received under 15-36-331(2)(b) to counties based on county oil and gas production. Of the distribution to a county, one-third must be distributed to the county government and two-thirds must be distributed to incorporated cities and towns within the county. If there is more than one incorporated city or town within the county, the city and town allocation must be distributed to the cities and towns based on their relative populations.

~~(8)~~(9) The ~~distribution~~ distributions to taxing units and to counties and incorporated cities and towns under this section ~~is~~ are statutorily appropriated, as provided in 17-7-502, from the state special revenue fund."

9. Page 11, line 20 through page 12, line 20.

Strike: section 6 in its entirety

Insert: "NEW SECTION. Section 6. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell band of Chippewa."

10. Page 12, line 22.

Strike: "Sections"

Insert: "Section"

Strike: "and 2"

Strike: "are"

Insert: "is"

11. Page 12, line 23.

Strike: "sections"

Insert: "section"

Strike: "and 2"

12. Page 12.

Following: line 24

Insert: "COORDINATION SECTION. Section 8. Coordination instruction. If House Bill No. 482 and [this act] are passed and approved, then:

(1) the percentage figure referred to in each version of 15-35-108(3) in House Bill No. 482 and [this act] must be 5.46%; and

(2) the percentage figure referred to in each version of 15-35-108 allocating money to the oil, gas, and coal natural resource account must be 2.9%."

13. Page 12, line 25.

Strike: "on passage and approval"

Insert: "July 1, 2005"

14. Page 12, line 27.

Strike: "tax years beginning after"

Insert: "oil and gas production occurring after"

And, as amended, do pass. Report adopted.

SB 70, be concurred in. Report adopted.

SB 74, be concurred in. Report adopted.

SB 92, be concurred in. Report adopted.

MESSAGES FROM THE SENATE

HOUSE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2005

House bills concurred in and returned to the House:

3/17/2005

HB 50, introduced by Roberts
HB 97, introduced by Lange
HB 116, introduced by Barrett
HB 147, introduced by Clark
HB 157, introduced by McKenney
HB 161, introduced by McNutt
HB 180, introduced by Lake
HB 209, introduced by McKenney
HB 285, introduced by Taylor

House bills concurred in as amended and returned to the House for concurrence in Senate amendments:

3/17/2005

HB 30, introduced by Wanzenried
HB 345, introduced by Gallik

House bills not concurred in and returned to the House:

3/17/2005

HB 367, introduced by Parker

FIRST READING AND COMMITMENT OF BILLS

The following House bills were introduced, read first time, and referred to committees:

HB 791, introduced by Juneau, Bixby, referred to Education.
HB 792, introduced by Koopman, referred to Taxation.
HB 793, introduced by McAlpin, referred to Natural Resources.

The following House joint resolution was introduced, read first time, and referred to committee:

HJR 35, introduced by Arntzen, Lange, Becker, Bergren, referred to Education.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Dem. Floor Leader Parker moved the House resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Representative Glaser in the chair.

Mr. Speaker: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 2 - Representative Witt moved **HB 2** do pass and gave opening remarks.

Rep. Buzzas gave remarks as the Chair of the House Appropriations Committee.

Rep. Sinrud gave opening remarks on HB 2, Section A: General Government.

HB 2 - Representative Wanzenried moved **HB 2**, second reading copy, be amended as follows:

1. Page A-7, line 7.

Strike: "19,754,810 19,954,761" [state special FY06 and FY07]

Insert: "19,504,810 19,704,761" [state special FT06 and FY07]

Amendment **not** adopted as follows:

HOUSE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2005

Ayes: Becker, Bergren, Bixby, Branae, Buzzas, Caferro, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Facey, Franklin, Furey, Gallik, Galvin-Halcro, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Henry, Hiner, Jacobson, Jayne, Jent, Jopek, Juneau, Kaufmann, Keane, Koopman, Lenhart, Lindeen, McAlpin, Musgrove, Noonan, Parker, Raser, Sesso, Small-Eastman, Villa, Wanzenried, Windham, Windy Boy, Wiseman, Mr. Speaker.

Total 50

Noes: Andersen, Arntzen, Balyeat, Barrett, D. Brown, R. Brown, Butcher, Everett, Glaser, Hawk, Heinert, Hendrick, Himmelberger, Jackson, L. Jones, W. Jones, Klock, Lake, Lambert, Lange, MacLaren, Maedje, Malcolm, McGillvray, McKenney, McNutt, Mendenhall, Milburn, Morgan, Noennig, A. Olson, B. Olson, Peterson, Rice, Ripley, Roberts, Ross, Sales, Sinrud, Sonju, Stahl, Stoker, Taylor, Wagman, Waitschies, Ward, Warden, Wells, Wilson, Witt.

Total 50

Voted Absentee: Lange, No.

Excused: None.

Total 0

Absent or not voting: None.

Total 0

HB 2 - Representative Sinrud moved **HB 2**, second reading copy, be further amended as follows:

1. Page A-5, line 4 through line 8.

Strike: line 4 through line 8 in their entirety

Amendment adopted as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, Becker, Bergren, Bixby, Branae, D. Brown, R. Brown, Butcher, Buzzas, Caferro, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Everett, Facey, Franklin, Furey, Gallik, Galvin-Halcro, Glaser, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Hawk, Heinert, Hendrick, Henry, Himmelberger, Hiner, Jackson, Jacobson, Jayne, Jent, L. Jones, W. Jones, Jopek, Juneau, Kaufmann, Keane, Klock, Koopman, Lake, Lambert, Lange, Lenhart, Lindeen, MacLaren, Maedje, Malcolm, McAlpin, McGillvray, McKenney, McNutt, Mendenhall, Milburn, Morgan, Musgrove, Noennig, Noonan, A. Olson, B. Olson, Peterson, Raser, Rice, Ripley, Roberts, Ross, Sales, Sesso, Sinrud, Small-Eastman, Sonju, Stahl, Stoker, Taylor, Villa, Wagman, Waitschies, Wanzenried, Ward, Warden, Wells, Wilson, Windham, Windy Boy, Wiseman, Witt, Mr. Speaker.

Total 99

Noes: None.

Total 0

Voted Absentee: Lange, Aye.

Excused: None.

Total 0

Absent or not voting: Parker.

Total 1

HB 2 - Representative Sinrud moved **HB 2**, second reading copy, be further amended as follows:

1. Page A-13, line 16 through line 17.

Strike: line 16 through line 17 in their entirety

Amendment adopted as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, D. Brown, R. Brown, Butcher, Everett, Glaser, Hawk, Heinert,

HOUSE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2005

Hendrick, Himmelberger, Jackson, Jayne, L. Jones, W. Jones, Juneau, Klock, Koopman, Lake, Lambert, MacLaren, Maedje, Malcolm, McGillvray, McKenney, McNutt, Mendenhall, Milburn, Morgan, Noennig, A. Olson, B. Olson, Peterson, Rice, Ripley, Roberts, Ross, Sales, Sinrud, Sonju, Stahl, Stoker, Taylor, Wagman, Waitschies, Ward, Warden, Wells, Windham, Witt, Mr. Speaker.

Total 53

Noes: Becker, Bergren, Bixby, Branae, Buzzas, Caferro, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Facey, Franklin, Furey, Gallik, Galvin-Halcro, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Henry, Hiner, Jacobson, Jent, Jopek, Kaufmann, Keane, Lenhart, Lindeen, McAlpin, Musgrove, Noonan, Parker, Raser, Sesso, Small-Eastman, Villa, Wanzenried, Wilson, Windy Boy, Wiseman.

Total 46

Excused: Lange.

Total 1

Absent or not voting: None.

Total 0

HB 2 - Representative Sinrud moved **HB 2**, second reading copy, be further amended as follows:

1. Page A-11, line 6.

Strike: "663,831 660,001" [general fund FY06 and FY07]

Insert: "607,003 606,324" [general fund FY06 and FY07]

Amendment adopted as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, D. Brown, R. Brown, Butcher, Everett, Franklin, Glaser, Golie, Hawk, Heinert, Hendrick, Himmelberger, Jackson, Jayne, L. Jones, W. Jones, Klock, Koopman, Lake, Lambert, MacLaren, Maedje, Malcolm, McAlpin, McGillvray, McKenney, McNutt, Mendenhall, Milburn, Morgan, Noennig, A. Olson, B. Olson, Parker, Peterson, Rice, Ripley, Roberts, Ross, Sales, Sinrud, Sonju, Stahl, Stoker, Taylor, Wagman, Waitschies, Wanzenried, Ward, Warden, Wells, Windham, Witt, Mr. Speaker.

Total 57

Noes: Becker, Bergren, Bixby, Branae, Buzzas, Caferro, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Facey, Furey, Gallik, Galvin-Halcro, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Henry, Hiner, Jacobson, Jopek, Juneau, Kaufmann, Lenhart, Lindeen, Musgrove, Noonan, Raser, Sesso, Small-Eastman, Villa, Wilson, Windy Boy, Wiseman.

Total 40

Excused: Lange.

Total 1

Absent or not voting: Jent, Keane.

Total 2

HB 2 - Representative Sinrud moved **HB 2**, second reading copy, be further amended as follows:

1. Page A-11, line 25 through page A-12, line 1.

Strike: Page A-11, line 25 through Page A-12, line 1 in their entirety

Renumber: subsequent subsections

2. Page A-12, line 20.

Strike: line 20 in its entirety

Amendment adopted as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, Becker, D. Brown, R. Brown, Butcher, Buzzas, Clark, Dowell, Everett, Glaser, Grinde, Gutsche, Hawk, Heinert, Hendrick, Henry, Himmelberger, Jackson, Jayne, L. Jones, W. Jones, Klock, Koopman, Lake, Lambert, Lange, MacLaren, Maedje, Malcolm, McGillvray, McKenney, McNutt,

HOUSE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2005

Mendenhall, Milburn, Morgan, Noennig, A. Olson, B. Olson, Parker, Peterson, Rice, Ripley, Roberts, Ross, Sales, Sinrud, Sonju, Stahl, Stoker, Taylor, Wagman, Waitschies, Wanzenried, Ward, Warden, Wells, Windham, Windy Boy, Wiseman, Witt, Mr. Speaker.
Total 64

Noes: Bergren, Bixby, Branae, Caferro, Callahan, Campbell, Cohenour, Dickenson, Driscoll, Eaton, Facey, Franklin, Furey, Gallik, Galvin-Halcro, Golie, Groesbeck, Hamilton, Harris, Hiner, Jacobson, Jent, Jopek, Juneau, Kaufmann, Keane, Lenhart, Lindeen, McAlpin, Musgrove, Noonan, Raser, Sesso, Small-Eastman, Villa, Wilson.
Total 36

Voted Absentee: Lange, Aye.

Excused: None.
Total 0

Absent or not voting: None.
Total 0

HB 2 - Representative Sesso moved **HB 2**, second reading copy, be further amended as follows:

1. Page A-5, line 9 through line 14.
Strike: line 9 through line 14 in their entirety

Amendment adopted as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, Becker, Bergren, Bixby, Branae, D. Brown, R. Brown, Butcher, Buzzas, Caferro, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Everett, Facey, Franklin, Furey, Gallik, Galvin-Halcro, Glaser, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Hawk, Heinert, Hendrick, Henry, Himmelberger, Hiner, Jackson, Jacobson, Jayne, Jent, L. Jones, W. Jones, Jopek, Juneau, Kaufmann, Keane, Klock, Koopman, Lake, Lambert, Lange, Lenhart, Lindeen, MacLaren, Maedje, Malcolm, McAlpin, McGillvray, McKenney, McNutt, Mendenhall, Milburn, Morgan, Musgrove, Noennig, Noonan, A. Olson, B. Olson, Parker, Peterson, Raser, Rice, Ripley, Roberts, Ross, Sales, Sesso, Sinrud, Small-Eastman, Sonju, Stahl, Stoker, Taylor, Villa, Wagman, Waitschies, Wanzenried, Ward, Warden, Wells, Wilson, Windham, Windy Boy, Wiseman, Witt, Mr. Speaker.
Total 100

Noes: None.
Total 0

Voted Absentee: Lange, Aye.

Excused: None.
Total 0

Absent or not voting: None.
Total 0

HB 2 - Representative Sinrud moved **HB 2**, second reading copy, be further amended as follows:

1. Page A-9, line 11.
Strike: "2,077,468 2,077,671" [general fund FY06 and FY07]
Insert: "1,956,988 1,957,191" [general fund FY06 and FY07]

2. Page A-9, line 17.
Strike: "3,264,485 3,903,588" [general fund FY06 and FY07]
Insert: "3,048,995 3,688,098" [general fund FY06 and FY07]

3. Page A-9, line 19.
Strike: "991,141 989,824" [general fund FY06 and FY07]

HOUSE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2005

Insert: "884,464 883,147" [general fund FY06 and FY07]

4. Page A-9, line 21.

Strike: "4,794,495 4,780,586" [general fund FY06 and FY07]

Insert: "4,605,617 4,591,708" [general fund FY06 and FY07]

5. Page A-10 line 2.

Strike: "5,096,954 5,106,724" [general fund FY06 and FY07]

Insert: "5,029,426 5,039,196" [general fund FY06 and FY07]

Amendment adopted as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, D. Brown, R. Brown, Butcher, Everett, Glaser, Hawk, Heinert, Hendrick, Himmelberger, Jackson, L. Jones, W. Jones, Klock, Koopman, Lake, Lambert, Lange, MacLaren, Maedje, Malcolm, McGillvray, McKenney, McNutt, Mendenhall, Milburn, Morgan, Noennig, A. Olson, B. Olson, Peterson, Rice, Ripley, Roberts, Ross, Sales, Sinrud, Sonju, Stahl, Stoker, Taylor, Wagman, Waitschies, Ward, Warden, Wells, Witt.

Total 50

Noes: Becker, Bergren, Bixby, Branae, Buzzas, Caferro, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Facey, Franklin, Furey, Gallik, Galvin-Halcro, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Henry, Hiner, Jacobson, Jayne, Jent, Jopek, Juneau, Kaufmann, Lenhart, Lindeen, McAlpin, Musgrove, Noonan, Parker, Raser, Sesso, Small-Eastman, Villa, Wanzenried, Wilson, Windham, Windy Boy, Wiseman, Mr. Speaker.

Total 49

Voted Absentee: Lange, Aye.

Excused: None.

Total 0

Absent or not voting: Keane.

Total 1

Speaker Matthews moved the committee rise, report progress, and beg leave to sit again. Motion carried with a voice vote.

Speaker Matthews announced the House Democrats will caucus. The House will stand at ease until 11:20 a.m.

The House reconvened at 11:20 a.m.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Dem. Floor Leader Parker moved the House resolve itself into a Committee of the Whole for continuation of business on second reading. Representative Glaser in the chair.

Rep. Brown moved to reconsider the House action on HB 2-22 amendment. Motion carried as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, Becker, Bergren, Bixby, Branae, D. Brown, R. Brown, Butcher, Caferro, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Everett, Facey, Franklin, Furey, Gallik, Galvin-Halcro, Glaser, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Hawk, Heinert, Hendrick, Henry, Himmelberger, Hiner, Jackson, Jacobson, Jayne, Jent, L. Jones, W. Jones, Jopek, Juneau, Kaufmann, Keane, Klock, Koopman, Lake, Lambert, Lenhart, Lindeen, MacLaren, Maedje, Malcolm, McAlpin, McGillvray, McKenney, McNutt, Mendenhall, Milburn, Morgan, Musgrove, Noennig, Noonan, A. Olson, B. Olson, Parker, Peterson, Raser, Rice, Ripley, Roberts, Ross, Sales, Sesso, Sinrud, Small-Eastman, Sonju, Stahl, Stoker, Taylor, Villa, Wagman, Waitschies, Wanzenried, Ward, Warden, Wells, Wilson, Windham, Windy Boy, Wiseman, Witt, Mr. Speaker.

Total 98

HOUSE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2005

Noes: None.
Total 0

Excused: Lange.
Total 1

Absent or not voting: Buzzas.
Total 1

HB 2 - Representative Wanzenried moved **HB 2**, second reading copy, be further amended as follows:

1. Page A-7, line 7.

Strike: "19,754,810 19,954,761" [state special FY06 and FY07]
Insert: "19,504,810 19,704,761" [state special FT06 and FY07]

Amendment adopted as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, Becker, Bergren, Bixby, Branae, D. Brown, R. Brown, Butcher, Buzzas, Caferro, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Everett, Facey, Franklin, Furey, Gallik, Galvin-Halcro, Glaser, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Hawk, Heinert, Hendrick, Henry, Himmelberger, Hiner, Jackson, Jacobson, Jayne, Jent, L. Jones, W. Jones, Jopek, Juneau, Kaufmann, Keane, Klock, Koopman, Lake, Lambert, Lange, Lenhart, Lindeen, MacLaren, Maedje, Malcolm, McAlpin, McGillvray, McKenney, McNutt, Mendenhall, Milburn, Morgan, Musgrove, Noennig, Noonan, A. Olson, B. Olson, Parker, Peterson, Raser, Rice, Ripley, Roberts, Ross, Sales, Sesso, Sinrud, Sonju, Stahl, Stoker, Taylor, Villa, Wagman, Waitschies, Wanzenried, Ward, Warden, Wells, Wilson, Windham, Windy Boy, Wiseman, Witt, Mr. Speaker.

Total 99

Noes: None.
Total 0

Voted Absentee: Keane, Lange, Ayes.

Excused: None.
Total 0

Absent or not voting: Small-Eastman.
Total 1

HB 2 - Representative Wanzenried moved **HB 2**, second reading copy, be further amended as follows:

1. Page A-7, line 7.

Strike: "19,754,810 19,954,761" [state special fund FY06 and FY07]
Insert: "19,311,913 19,491,140" [state special fund FY06 and FY07]

Amendment adopted as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, Becker, Bergren, Bixby, Branae, D. Brown, R. Brown, Butcher, Buzzas, Caferro, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Everett, Facey, Franklin, Furey, Gallik, Galvin-Halcro, Glaser, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Hawk, Heinert, Hendrick, Henry, Himmelberger, Hiner, Jackson, Jacobson, Jayne, Jent, L. Jones, W. Jones, Jopek, Juneau, Kaufmann, Keane, Klock, Koopman, Lake, Lambert, Lange, Lenhart, Lindeen, MacLaren, Maedje, Malcolm, McAlpin, McGillvray, McKenney, McNutt, Mendenhall, Milburn, Morgan, Musgrove, Noennig, Noonan, A. Olson, B. Olson, Parker, Peterson, Raser, Rice, Ripley, Roberts, Ross, Sales, Sesso, Sinrud, Small-Eastman, Sonju, Stahl, Stoker, Taylor, Villa, Wagman, Waitschies, Wanzenried, Ward, Warden, Wells, Wilson, Windham, Windy Boy, Wiseman, Witt, Mr. Speaker.

Total 100

Noes: None.

HOUSE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2005

Total 0

Voted Absentee: Keane, Lange, Ayes.

Excused: None.

Total 0

Absent or not voting: None.

Total 0

HB 2 - Representative Wanzenried moved **HB 2**, second reading copy, be further amended as follows:

1. Page A-12, line 13.

Strike: "There"

Insert: "If House Bill No. 102 is not passed and approved, there"

2. Page D-3, line 20.

Strike: "There"

Insert: "If House Bill No. 102 is not passed and approved, there"

Amendment adopted as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, Becker, Bergren, Bixby, Branae, D. Brown, R. Brown, Butcher, Buzzas, Caferro, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Everett, Facey, Franklin, Furey, Gallik, Galvin-Halcro, Glaser, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Hawk, Heinert, Hendrick, Henry, Himmelberger, Hiner, Jackson, Jacobson, Jayne, Jent, L. Jones, W. Jones, Jopek, Juneau, Kaufmann, Keane, Klock, Koopman, Lake, Lambert, Lange, Lenhart, Lindeen, MacLaren, Maedje, Malcolm, McAlpin, McGillvray, McKenney, McNutt, Mendenhall, Milburn, Morgan, Musgrove, Noennig, Noonan, A. Olson, B. Olson, Parker, Peterson, Raser, Rice, Ripley, Roberts, Ross, Sales, Sesso, Sinrud, Small-Eastman, Sonju, Stahl, Stoker, Taylor, Villa, Wagman, Waitschies, Wanzenried, Ward, Warden, Wells, Wilson, Windham, Windy Boy, Wiseman, Witt, Mr. Speaker.

Total 100

Noes: None.

Total 0

Voted Absentee: Keane, Lange, Ayes.

Excused: None.

Total 0

Absent or not voting: None.

Total 0

HB 2 - Representative Sinrud moved **HB 2**, second reading copy, be further amended as follows:

1. Page A-3, line 12.

Strike: "2,730,968 [general fund FY06]"

Insert: "2,130,968 [general fund FY06]"

Amendment adopted as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, D. Brown, R. Brown, Butcher, Caferro, Eaton, Everett, Franklin, Glaser, Hawk, Heinert, Hendrick, Henry, Himmelberger, Jackson, L. Jones, W. Jones, Kaufmann, Klock, Koopman, Lake, Lambert, Lange, Lindeen, MacLaren, Maedje, Malcolm, McGillvray, McKenney, McNutt, Mendenhall, Milburn, Morgan, Noennig, A. Olson, Peterson, Rice, Ripley, Roberts, Ross, Sales, Sinrud, Sonju, Stahl, Stoker, Taylor, Wagman, Waitschies, Ward, Warden, Wells, Witt.

Total 55

HOUSE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2005

Noes: Becker, Bergren, Bixby, Branae, Buzzas, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Facey, Furey, Gallik, Galvin-Halcro, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Hiner, Jacobson, Jayne, Jent, Jopek, Juneau, Lenhart, McAlpin, Musgrove, Noonan, Parker, Raser, Sesso, Small-Eastman, Villa, Wanzenried, Wilson, Windham, Windy Boy, Wiseman, Mr. Speaker.
Total 43

Voted Absentee: Lange, Aye.

Excused: None.
Total 0

Absent or not voting: Keane, B. Olson.
Total 2

HB 2 - Representative Sinrud moved **HB 2**, second reading copy, be further amended as follows:

1. Page A-11, line 14.
Strike: "4,100,000" [general fund FY06]
Insert: "3,500,000" [general fund FY06]

Amendment adopted as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, D. Brown, R. Brown, Butcher, Caferro, Everett, Glaser, Hawk, Heinert, Hendrick, Himmelberger, Jackson, Jacobson, L. Jones, W. Jones, Juneau, Kaufmann, Klock, Koopman, Lake, Lambert, Lange, MacLaren, Maedje, Malcolm, McGillvray, McKenney, McNutt, Mendenhall, Milburn, Morgan, Noennig, Peterson, Rice, Ripley, Roberts, Ross, Sales, Sinrud, Sonju, Taylor, Wagman, Ward, Warden, Wells, Windham, Witt.
Total 50

Noes: Becker, Bergren, Bixby, Branae, Buzzas, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Facey, Franklin, Furey, Gallik, Galvin-Halcro, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Henry, Hiner, Jayne, Jent, Jopek, Lenhart, Lindeen, McAlpin, Musgrove, Noonan, A. Olson, B. Olson, Parker, Raser, Sesso, Small-Eastman, Stahl, Stoker, Villa, Waitschies, Wanzenried, Wilson, Windy Boy, Wiseman, Mr. Speaker.
Total 49

Voted Absentee: Lange, Aye.

Excused: Keane.
Total 1

Absent or not voting: None.
Total 0

HB 2 - Representative Sinrud moved **HB 2**, second reading copy, be further amended as follows:

1. Page A-1, line 24.
Strike: "3,876,156 4,210,183" [general fund FY06 and FY07]
Insert: "3,763,760 4,104,420" [general fund FY06 and FY07]

2. Page A-2, line 25 through page A-3, line 8.
Strike: line 25 on page A-2 and lines 1 through 8 on page A-3 in their entirety

Amendment adopted as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, D. Brown, R. Brown, Butcher, Everett, Franklin, Galvin-Halcro, Glaser, Golie, Hawk, Heinert, Hendrick, Himmelberger, Hiner, Jackson, Jayne, L. Jones, W. Jones, Klock, Koopman, Lake, Lambert, Lange, Lindeen, MacLaren, Maedje, Malcolm, McGillvray, McKenney, McNutt, Mendenhall, Milburn, Morgan, Noonan, A. Olson, B. Olson, Peterson, Rice, Ripley, Roberts, Ross, Sales, Sesso, Sinrud, Sonju, Stahl, Stoker, Taylor, Villa, Wagman, Waitschies, Wanzenried, Ward, Warden, Wells, Windham, Witt, Mr. Speaker.

HOUSE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2005

Total 61

Noes: Becker, Bergren, Bixby, Branae, Buzzas, Caferro, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Facey, Furey, Gallik, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Henry, Jacobson, Jent, Jopek, Juneau, Kaufmann, Keane, Lenhart, McAlpin, Musgrove, Noennig, Parker, Raser, Small-Eastman, Wilson, Windy Boy, Wiseman.

Total 39

Voted Absentee: Lange, Aye; Keane, No.

Excused: None.

Total 0

Absent or not voting: None.

Total 0

HB 2 - Representative Raser moved **HB 2**, second reading copy, be further amended as follows:

1. Page A-4.

Following: line 18

Insert: "It is the intent of the legislature that the department of commerce use accommodations taxes to fund \$300,000 in fiscal year 2006 and \$300,000 in fiscal year 2007 for marketing montana and business recruitment program."

Amendment **not** adopted as follows:

Ayes: Becker, Bergren, Bixby, Branae, Buzzas, Caferro, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Facey, Furey, Galvin-Halcro, Golie, Grinde, Gutsche, Hamilton, Harris, Hiner, Jacobson, Kaufmann, Keane, Lenhart, Lindeen, McAlpin, Musgrove, Noonan, Parker, Raser, Sesso, Small-Eastman, Villa, Wanzenried, Wilson, Windham, Windy Boy, Wiseman.

Total 41

Noes: Andersen, Arntzen, Balyeat, Barrett, D. Brown, R. Brown, Butcher, Everett, Franklin, Gallik, Glaser, Groesbeck, Hawk, Heinert, Hendrick, Henry, Himmelberger, Jackson, Jayne, Jent, L. Jones, W. Jones, Jopek, Juneau, Klock, Koopman, Lake, Lambert, Lange, MacLaren, Maedje, Malcolm, McGillvray, McKenney, McNutt, Mendenhall, Milburn, Morgan, Noennig, A. Olson, B. Olson, Peterson, Rice, Ripley, Roberts, Ross, Sales, Sinrud, Sonju, Stahl, Stoker, Taylor, Wagman, Waitschies, Ward, Warden, Wells, Witt, Mr. Speaker.

Total 59

Voted Absentee: Keane, Aye; Lange, No.

Excused: None.

Total 0

Absent or not voting: None.

Total 0

HB 2 - Representative Sinrud moved **HB 2**, second reading copy, be further amended as follows:

1. Page A-3, line 22.

Strike: "86,527 86,395" [general fund for FY06 and FY07]

Insert: "61,527 61,395" [general fund for FY06 and FY07]

Amendment adopted as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, D. Brown, R. Brown, Butcher, Caferro, Everett, Glaser, Hawk, Heinert, Hendrick, Himmelberger, Jackson, Jacobson, Jayne, L. Jones, W. Jones, Juneau, Kaufmann, Klock, Koopman, Lake, Lambert, Lange, MacLaren, Maedje, Malcolm, McGillvray, McKenney, McNutt, Mendenhall, Milburn, Morgan, Noennig, A. Olson, B. Olson, Peterson, Raser, Rice, Ripley, Roberts, Ross, Sales, Sinrud, Sonju, Stahl, Stoker, Taylor, Wagman, Waitschies, Ward, Warden, Wells, Witt.

HOUSE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2005

Total 56

Noes: Becker, Bergren, Bixby, Branae, Buzzas, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Facey, Franklin, Furey, Gallik, Galvin-Halcro, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Henry, Hiner, Jent, Jopek, Keane, Lenhart, Lindeen, McAlpin, Musgrove, Noonan, Parker, Sesso, Small-Eastman, Villa, Wanzenried, Wilson, Windham, Windy Boy, Wiseman, Mr. Speaker.

Total 44

Voted Absentee: Lange, Aye; Keane, No.

Excused: None.

Total 0

Absent or not voting: None.

Total 0

HB 2 - Representative Wanzenried moved **HB 2**, second reading copy, be further amended as follows:

1. Page A-12, line 18.

Strike: "\$4,000,000"

Insert: "\$2,100,000"

2. Page A-12, line 19.

Following: "purpose."

Insert: "If House Bill No. 745 is passed and approved in a form that includes an appropriation of \$2,100,000 to finish the contractor payments on IRIS phase one, then this appropriation is void."

Amendment adopted as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, Becker, Bergren, Bixby, Branae, R. Brown, Butcher, Buzzas, Caferro, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Everett, Facey, Franklin, Furey, Gallik, Galvin-Halcro, Glaser, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Hawk, Heinert, Hendrick, Henry, Himmelberger, Hiner, Jackson, Jacobson, Jayne, Jent, L. Jones, W. Jones, Jopek, Juneau, Kaufmann, Keane, Klock, Koopman, Lake, Lambert, Lange, Lenhart, Lindeen, MacLaren, Maedje, Malcolm, McAlpin, McGillvray, McKenney, McNutt, Mendenhall, Milburn, Morgan, Musgrove, Noennig, Noonan, A. Olson, B. Olson, Parker, Peterson, Raser, Rice, Ripley, Roberts, Ross, Sales, Sesso, Sinrud, Small-Eastman, Sonju, Stoker, Taylor, Villa, Wagman, Waitschies, Wanzenried, Ward, Warden, Wells, Wilson, Windham, Windy Boy, Wiseman, Witt, Mr. Speaker.

Total 98

Noes: D. Brown, Stahl.

Total 2

Voted Absentee: Keane, Lange, Ayes.

Excused: None.

Total 0

Absent or not voting: None.

Total 0

HB 2 - Representative Sinrud moved **HB 2**, second reading copy, be further amended as follows:

1. Page A-4, line 1.

Strike: "274,417 264,366" [general fund FY06 and FY07]

Insert: "236,917 226,866" [general fund FY06 and FY07]

Amendment adopted as follows:

HOUSE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2005

Ayes: Andersen, Arntzen, Balyeat, Barrett, D. Brown, R. Brown, Butcher, Caferro, Clark, Everett, Glaser, Hawk, Heinert, Hendrick, Himmelberger, Jackson, Jayne, L. Jones, W. Jones, Klock, Koopman, Lake, Lambert, Lange, MacLaren, Maedje, Malcolm, McGillvray, McKenney, McNutt, Mendenhall, Milburn, Morgan, Noennig, A. Olson, B. Olson, Peterson, Raser, Rice, Ripley, Roberts, Ross, Sales, Sinrud, Sonju, Stahl, Stoker, Taylor, Wagman, Waitschies, Ward, Warden, Wells.
Total 53

Noes: Becker, Bergren, Bixby, Branae, Buzzas, Callahan, Campbell, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Facey, Franklin, Furey, Gallik, Galvin-Halcro, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Henry, Hiner, Jacobson, Jent, Jopek, Juneau, Kaufmann, Keane, Lenhart, Lindeen, McAlpin, Musgrove, Noonan, Parker, Sesso, Small-Eastman, Villa, Wanzenried, Wilson, Windham, Windy Boy, Wiseman, Witt, Mr. Speaker.
Total 47

Voted Absentee: Lange, Aye; Keane, No.

Excused: None.
Total 0

Absent or not voting: None.
Total 0

HB 2 - Representative Sinrud moved **HB 2**, second reading copy, be further amended as follows:

1. Page A-2, line 3.
Strike: "1,345,000" [general fund FY06]
Insert: "1,095,000" [general fund FY06]

Amendment adopted as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, D. Brown, R. Brown, Butcher, Everett, Facey, Glaser, Golie, Groesbeck, Hawk, Heinert, Hendrick, Himmelberger, Jackson, Jayne, L. Jones, W. Jones, Klock, Koopman, Lake, Lambert, Lange, MacLaren, Maedje, Malcolm, McGillvray, McKenney, McNutt, Mendenhall, Milburn, Morgan, Noennig, A. Olson, B. Olson, Peterson, Rice, Ripley, Roberts, Ross, Sales, Sinrud, Sonju, Stahl, Stoker, Taylor, Wagman, Waitschies, Warden, Wells, Wilson, Windham, Witt.
Total 55

Noes: Becker, Bergren, Bixby, Branae, Buzzas, Caferro, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Franklin, Furey, Gallik, Galvin-Halcro, Grinde, Gutsche, Hamilton, Harris, Henry, Hiner, Jacobson, Jent, Jopek, Juneau, Kaufmann, Keane, Lenhart, Lindeen, McAlpin, Musgrove, Noonan, Parker, Raser, Sesso, Small-Eastman, Villa, Wanzenried, Ward, Windy Boy, Wiseman, Mr. Speaker.
Total 45

Voted Absentee: Lange, Aye; Keane, No.

Excused: None.
Total 0

Absent or not voting: None.
Total 0

HB 2 - Representative Sinrud moved **HB 2**, second reading copy, be further amended as follows:

1. Page A-12, lines 4 and 5.
Strike: line 4 through line 5 in their entirety

2. Page A-12, line 22.
Strike: line 22 in its entirety

Amendment adopted as follows:

HOUSE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2005

Ayes: Andersen, Arntzen, Balyeat, Barrett, Becker, Branae, D. Brown, R. Brown, Butcher, Caferro, Campbell, Clark, Cohenour, Dickenson, Eaton, Everett, Facey, Gallik, Glaser, Golie, Grinde, Gutsche, Hamilton, Harris, Hawk, Heinert, Hendrick, Himmelberger, Hiner, Jackson, Jacobson, Jayne, Jent, L. Jones, W. Jones, Kaufmann, Klock, Koopman, Lake, Lambert, Lange, Lenhart, MacLaren, Maedje, Malcolm, McAlpin, McGillvray, McKenney, McNutt, Mendenhall, Milburn, Morgan, Noennig, A. Olson, B. Olson, Peterson, Raser, Rice, Ripley, Roberts, Ross, Sales, Sinrud, Sonju, Stahl, Stoker, Taylor, Wagman, Waitschies, Wanzenried, Ward, Warden, Wells, Wilson, Windham, Windy Boy, Wiseman, Witt, Mr. Speaker.
Total 79

Noes: Bergren, Bixby, Buzzas, Callahan, Dowell, Driscoll, Franklin, Furey, Galvin-Halcro, Groesbeck, Henry, Jopek, Juneau, Keane, Lindeen, Musgrove, Noonan, Parker, Sesso, Small-Eastman, Villa.
Total 21

Voted Absentee: Lange, Aye; Keane, No.

Excused: None.
Total 0

Absent or not voting: None.
Total 0

HB 2 - Representative Sinrud moved **HB 2**, second reading copy, be further amended as follows:

1. Page A-1, line 18.

Strike: "250,000 250,000" [state special fund FY06 and FY07]

Insert: "219,354 219,354" [state special fund FY06 and FY07]

Amendment adopted as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, Becker, Bergren, Bixby, Branae, D. Brown, R. Brown, Butcher, Buzzas, Caferro, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Everett, Franklin, Galvin-Halcro, Glaser, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Hawk, Heinert, Hendrick, Henry, Himmelberger, Jackson, Jacobson, Jayne, L. Jones, W. Jones, Jopek, Juneau, Kaufmann, Keane, Klock, Koopman, Lake, Lambert, Lange, Lindeen, MacLaren, Maedje, Malcolm, McAlpin, McGillvray, McKenney, Mendenhall, Milburn, Morgan, Musgrove, Noennig, Noonan, A. Olson, B. Olson, Parker, Peterson, Raser, Rice, Roberts, Ross, Sales, Sesso, Sinrud, Sonju, Stahl, Stoker, Taylor, Villa, Wagman, Waitschies, Wanzenried, Ward, Warden, Wells, Wilson, Windham, Witt.
Total 88

Noes: Facey, Furey, Gallik, Hiner, Jent, Lenhart, McNutt, Ripley, Small-Eastman, Windy Boy, Wiseman, Mr. Speaker.
Total 12

Voted Absentee: Keane, Lange, Ayes.

Excused: None.
Total 0

Absent or not voting: None.
Total 0

HB 2 - Representative Sinrud moved **HB 2**, second reading copy, be further amended as follows:

1. Page A-2, line 11.

Strike: "29,719,790 30,108,259" [general fund fy06/fy07]

Insert: "29,038,875 29,427,344" [general fund fy06/fy07]

Amendment **not** adopted as follows:

HOUSE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2005

Ayes: Andersen, Arntzen, Balyeat, Barrett, D. Brown, R. Brown, Butcher, Everett, Glaser, Hawk, Heinert, Hendrick, Himmelberger, Jackson, L. Jones, W. Jones, Klock, Koopman, Lake, Lambert, Lange, MacLaren, Maedje, Malcolm, McGillvray, McKenney, McNutt, Mendenhall, Milburn, Morgan, A. Olson, Peterson, Rice, Ripley, Roberts, Ross, Sales, Sinrud, Sonju, Stahl, Stoker, Taylor, Wagman, Waitschies, Ward, Warden, Wells, Witt.

Total 48

Noes: Becker, Bergren, Bixby, Branae, Buzzas, Caferro, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Facey, Franklin, Furey, Gallik, Galvin-Halcro, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Henry, Hiner, Jacobson, Jayne, Jent, Jopek, Juneau, Kaufmann, Keane, Lenhart, Lindeen, McAlpin, Musgrove, Noennig, Noonan, B. Olson, Parker, Raser, Sesso, Small-Eastman, Villa, Wanzenried, Wilson, Windham, Windy Boy, Wiseman, Mr. Speaker.

Total 52

Voted Absentee: Lange, Aye; Keane, No.

Excused: None.

Total 0

Absent or not voting: None.

Total 0

HB 2 - Representative Harris moved **HB 2**, second reading copy, be further amended as follows:

1. Page A-4, line 1.

Strike: "274,417" [general fund FY06]

Insert: "277,617" [general fund FY06]

Amendment adopted as follows:

Ayes: Becker, Bergren, Bixby, Branae, R. Brown, Butcher, Buzzas, Caferro, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Franklin, Furey, Gallik, Galvin-Halcro, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Heinert, Hiner, Jackson, Jacobson, Jayne, Jopek, Juneau, Kaufmann, Keane, Lenhart, Lindeen, MacLaren, Maedje, McAlpin, Musgrove, Noennig, Noonan, A. Olson, Parker, Peterson, Raser, Sesso, Sinrud, Small-Eastman, Villa, Wagman, Wanzenried, Wilson, Windham, Windy Boy, Wiseman, Mr. Speaker.

Total 58

Noes: Andersen, Arntzen, Balyeat, Barrett, D. Brown, Everett, Facey, Glaser, Hawk, Hendrick, Henry, Himmelberger, Jent, L. Jones, W. Jones, Klock, Koopman, Lake, Lambert, Lange, Malcolm, McGillvray, McKenney, McNutt, Mendenhall, Milburn, Morgan, B. Olson, Rice, Ripley, Roberts, Ross, Sales, Sonju, Stahl, Stoker, Taylor, Waitschies, Ward, Warden, Wells, Witt.

Total 42

Voted Absentee: Keane, Aye; Lange, No.

Excused: None.

Total 0

Absent or not voting: None.

Total 0

Rep. Sinrud withdrew his amendment HB 2-29.

Rep. Parker announced the House Democrats will caucus.

Rep. Brown announced the House Republicans will caucus.

Chairman Glaser stated the House will stand at ease until 2:25 p.m.

House resumed at 2:34 p.m.

HOUSE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2005

Rep. Ward read the following proclamation:

A PROCLAMATION OF THE SENATE AND THE HOUSE OF
REPRESENTATIVES OF THE STATE OF MONTANA
March 17, 2005

WHEREAS, Thomas Francis Meagher was an Irish patriot, American Civil War General, and first Secretary of the Montana Territory; and

WHEREAS, Thomas Francis Meagher was the Acting Territorial Governor from September 1865 to July 1867; and

WHEREAS, March 17 is the feast of Saint Patrick and a fitting day to recognize this great Irishman; and

WHEREAS, 2005 will mark the 100th Anniversary of the Thomas Francis Meagher statue which graces the front of our great Montana Capitol Building; and

WHEREAS, on the 5th of July, 2005, this hallmark statue, which has been enjoyed by Montanans and visitors for a century, will be the subject of a Centennial Celebration.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA: That the House of Representatives and the Senate of the State of Montana, on this, the 17th day of March, 2005, hereby recognize Thomas Francis Meagher for his contributions to the cause of freedom and prosperity for the people of this State.

We encourage and support the Centennial Celebration to recognize the setting of and recent restoration of the Thomas Francis Meagher statue.

We further order and declare that July 5, 2005 shall be known as Thomas Francis Meagher Day in the State of Montana.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Dem. Floor Leader Parker moved the House resolve itself into a Committee of the Whole for the continuation of business on second reading. Representative Himmelberger in the chair.

Rep. Kaufmann gave opening remarks on Section B: Department of Health and Human Services.

HB 2 - Representative Caferro moved **HB 2**, second reading copy, be further amended as follows:

1. Page B-2, line 9.

Strike: "19,197,505" [state special fund FY07]

Insert: "17,397,505" [state special fund FY07]

2. Page B-4, line 20.

Following: "d."

Strike: "Eliminate Asset Test"

Insert: "Raise Asset Limit for Medicaid Eligibility"

3. Page B-4, line 21.

Strike: line 21 in its entirety [general fund and federal funds FY06]

Insert: "1,876,316 4,529,679" [state special and federal funds FY06]

Explanation: This amendment funds the state match for raising the asset limit for children's Medicaid eligibility (HB 552) from I-149 state special revenue authority instead of from general fund and adjusts the funding in HB 2 to correspond to the most recent fiscal note for HB 552.

The \$1,876,316 million in state special revenue authority to support HB 552 is removed from funding appropriated for small business tax credits and health insurance premium assistance (HB 667). The net change due to this amendment is a \$2.2 million general fund reduction and a \$781,487 reduction in federal matching funds.

Amendment adopted as follows:

HOUSE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2005

Ayes: Becker, Bergren, Bixby, Branae, Buzzas, Caferro, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Facey, Franklin, Furey, Gallik, Galvin-Halcro, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Hendrick, Henry, Hiner, Jacobson, Jayne, Jent, Jopek, Juneau, Kaufmann, Keane, Lenhart, Lindeen, McAlpin, McGillvray, Musgrove, Noonan, Parker, Raser, Sesso, Small-Eastman, Villa, Wanzenried, Ward, Wilson, Windham, Windy Boy, Wiseman.

Total 52

Noes: Andersen, Arntzen, Balyeat, Barrett, D. Brown, R. Brown, Butcher, Everett, Glaser, Hawk, Heinert, Himmelberger, Jackson, L. Jones, W. Jones, Klock, Koopman, Lake, Lambert, Lange, MacLaren, Maedje, Malcolm, McKenney, McNutt, Mendenhall, Milburn, Morgan, Noennig, A. Olson, B. Olson, Peterson, Rice, Ripley, Roberts, Ross, Sales, Sinrud, Sonju, Stahl, Stoker, Taylor, Wagman, Waitschies, Warden, Wells, Witt, Mr. Speaker.

Total 48

Voted Absentee: Lange, No.

Excused: None.

Total 0

Absent or not voting: None.

Total 0

HB 2 - Representative Morgan moved **HB 2**, second reading copy, be further amended as follows:

1. Page B-2, line 9.

Strike: "19,197,505 26,497,755" [state special fund FY06 and FY07]

Insert: "247,505 6,129,733" [state special fund FY06 and FY07]

2. Page B-4, line 13.

Strike: "9,966,860 11,101,211" [state special fund FY06 and FY07]

Insert: "7,922,954 10,005,119" [state special fund FY 06 and FY07]

Strike: "319,083,736 342,322,522" [federal special fund FY06 and FY07]

Insert: "312,701,466 338,872,401" [federal special fund FY06 and FY07]

Explanation: This amendment makes several changes to the I-149 appropriation included in the Director's Office and one change to the expansion of CHIP coverage to an additional 3,000 children (base level enrollment of 10,900) included in the Health Resources Division for a total reduction of \$42.1 million state special revenue and \$9.8 million federal funds over the biennium. Each change and the specific reductions associated with each change are listed below. The amendment:

1. Delays implementation of the low-income prescription drug coverage program embodied in SB 324 until 1/1/07
--reduction \$7.0 million in FY06 and \$5.25 million in FY07
3. Delays implementation of Medicaid provider rate increases and service expansions until 1/1/07
--reduction of \$5,594,101 in FY06 and \$3,568,023 in FY07
3. Delays expansion of CHIP to 13,900 (an additional 3,000 children) until 1/1/07
--reduction \$2,043,906 in FY06 and \$1,096,092 in FY07
4. Removes the appropriation for the small business tax credit and premium assistance program embodied in HB 667
--reduction of \$6.0 million in FY06 and \$11.55 million in FY07
5. Removes \$355,899 in excess appropriation authority in FY06 that is not assigned to any particular function in the executive budget

Amendment **not** adopted as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, D. Brown, R. Brown, Butcher, Everett, Glaser, Hawk, Heinert, Hendrick, Himmelberger, Jackson, L. Jones, W. Jones, Klock, Koopman, Lake, Lambert, Lange, MacLaren, Maedje, Malcolm, McGillvray, McKenney, McNutt, Mendenhall, Milburn, Morgan, Noennig, A. Olson, B. Olson, Peterson, Rice, Ripley, Roberts, Ross, Sales, Sinrud, Sonju, Stahl, Stoker, Taylor, Wagman, Waitschies, Warden, Wells, Witt.

Total 49

HOUSE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2005

Noes: Becker, Bergren, Bixby, Branae, Buzzas, Caferro, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Facey, Franklin, Furey, Gallik, Galvin-Halcro, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Henry, Hiner, Jacobson, Jayne, Jent, Jopek, Juneau, Kaufmann, Keane, Lenhart, Lindeen, McAlpin, Musgrove, Noonan, Parker, Raser, Sesso, Small-Eastman, Villa, Wanzenried, Ward, Wilson, Windham, Windy Boy, Wiseman, Mr. Speaker.

Total 51

Voted Absentee: Lange, Aye.

Excused: None.

Total 0

Absent or not voting: None.

Total 0

HB 2 - Representative Kaufmann moved **HB 2**, second reading copy, be further amended as follows:

1. Page B-4, line 13.

Strike: "95,477,980 9,966,860" [general fund and state special revenue FY06]

Insert: "96,577,980 8,866,860" [general fund and state special revenue FY06]

Strike: "103,789,808 11,101,211" [general fund and state special revenue FY07]

Insert: "104,889,808 10,001,211" [general fund and state special revenue FY07]

Explanation: This amendment uses the \$2.2 million reduction of general fund in FY 06 in HB2-1021 which passed for raising the asset limit for children's Medicaid eligibility (HB 552).

The \$2.2 million general fund reduction for the asset test is reallocated \$1.1 million each year of the biennium to support state match for the Children's Health Insurance Program (CHIP). State special revenue CHIP match from I-149 is reduced by \$1.1 million each year due to the general fund increase.

Amendment adopted as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, Becker, Bergren, Bixby, Branae, D. Brown, R. Brown, Butcher, Buzzas, Caferro, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Facey, Franklin, Gallik, Galvin-Halcro, Glaser, Grinde, Gutsche, Hamilton, Harris, Heinert, Hendrick, Henry, Himmelberger, Hiner, Jackson, Jacobson, Jayne, Jent, L. Jones, W. Jones, Jopek, Juneau, Kaufmann, Keane, Klock, Lambert, Lange, Lenhart, Lindeen, MacLaren, Malcolm, McAlpin, McGillvray, McKenney, McNutt, Morgan, Musgrove, Noonan, A. Olson, B. Olson, Parker, Peterson, Raser, Rice, Ripley, Roberts, Sesso, Small-Eastman, Sonju, Stahl, Stoker, Taylor, Villa, Wanzenried, Ward, Warden, Windy Boy, Wiseman, Witt.

Total 80

Noes: Everett, Furey, Golie, Groesbeck, Hawk, Koopman, Lake, Maedje, Mendenhall, Milburn, Ross, Sales, Sinrud, Wagman, Waitschies, Wells, Wilson, Windham, Mr. Speaker.

Total 19

Voted Absentee: Lange, Aye.

Excused: None.

Total 0

Absent or not voting: Noennig.

Total 1

HR 2 - Representative Morgan moved **HR 2**, second reading copy, be further amended as follows:

1. Page B-1, line 4.

Strike: "183,934,559 196,348,153" [federal special fund FY06 and FY07]

Insert: "188,849,559 198,863,153" [federal special fund FY06 and FY07]

HOUSE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2005

2. Page B-1, line 7 through line 10.

Strike: line 7 through line 10 in their entirety

Renumber: subsequent subsections

3. Page B-1, line 13 through line 18.

Strike: line 13 through line 18 in their entirety

4. Page B-2, line 9.

Strike: line 9 in its entirety

Insert: "1,328,489 1,331,310" [general fund FY06/FY07]
 "19,191,224 26,491,473" [state special revenue FY06/FY07]
 "2,624,543 17,142,060" [federal funds FY06/FY07]

5. Page B-2, lines 12 and 13.

Strike: lines 12 and 13 in their entirety [general fund FY06]

6. Page B-3, lines 3 and 4.

Strike: lines 3 and 4 in their entirety

Renumber: subsequent subsection

7. Page B-4, line 13.

Strike: "95,477,980 9,966,860" [general fund and state special revenue FY06]

Insert: "98,770,849 6,673,991" [general fund and state special revenue FY06]

Strike: "103,789,808 11,101,211" [general fund and state special revenue FY07]

Insert: "107,082,677 7,808,342" [general fund and state special revenue FY07]

8. Page B-4, lines 16 and 17.

Strike: lines 16 through 17 in their entirety

Renumber: subsequent subsections

9. Page B-4, lines 20 and 21.

Strike: lines 20 through 21 in their entirety

Renumber: subsequent subsections

10. Page B-4, line 23.

Strike: "1,000,000 2,414,135" [state special and federal funds FY06]

Insert: "800,000 1,931,308" [state special and federal funds FY06]

11. Page B-5, line 2.

Strike: "0 1,924,781 0 1,346,732" [general fund and state special revenue FY06 and FY07]

Insert: "1,924,781 0 1,346,732 0" [general fund and state special revenue FY06 and FY07]

12. Page B-5, line 4.

Strike: "47,257,025 48,377,984" [general fund FY 06 and FY 07]

Insert: "47,461,025 48,581,984" [general fund FY 06 and FY 07]

Strike: "13,301,080 13,227,306" [state special fund FY06/FY07]

Insert: "13,097,080 13,023,306" [state special fund FY06/FY07]

13. Page B-5, line 14.

Strike: line 14 in its entirety

Insert: "2,080,000 1,120,000 7,725,230" [general fund, state special revenue, and federal funds
FY06]

14. Page B-5, line 16.

Strike: "41,867,075 5,300,526" [general fund and state special revenue FY 06]

Insert: "42,065,504 5,102,097" [general fund and state special revenue FY 06]

Strike: "42,533,984 5,416,927" [general fund and state special revenue FY 07]

Insert: "42,732,413 5,218,498" [general fund and state special revenue FY 07]

HOUSE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2005

15. Page B-5, lines 23 and 24.

Strike: lines 23 through 24 in their entirety

Renumber: subsequent subsection

16. Page B-6, line 18.

Following: "for"

Strike: "Energy Ombudsman, Child Care, Food Banks, TANF Reduce CC Transfer, Fund Cash Assistance,"

17. Page B-6, line 19.

Following: "Increase,"

Strike: "Revenue Auditors,"

18. Page B-6, line 20.

Following: "Physician Rate Increase,"

Strike: "Eliminate Asset Test for Children,"

19. Page B-6, line 21.

Following: "Increase,"

Insert: "and"

Following: "Drugs"

Strike: ", and Substance Abuse Treatment"

20. Page B-6, line 24 through page B-7, line 7.

Strike: line 24 through line 7 in their entirety

21. Page B-7, line 15 through line 18.

Strike: line 15 through line 18 in their entirety

22. Page B-7, line 23 through line 24.

Strike: line 23 through line 24 in their entirety

23. Page B-8, lines 15 and 16.

Strike: lines 15 through 16 in their entirety

24. Page B-12, lines 8 through 11

Strike: lines 8 through 11 in their entirety

25. Page B-12, lines 13 through 15.

Strike: lines 13 through 15 in their entirety

26. Page B-14, lines 5 through 8.

Strike: lines 5 through 8 in their entirety

Explanation: This amendment removes all appropriations from I-149 that conflict with the statutory uses allowed, except for the appropriation from I-149 funds that supports the Mental Health Services Plan. The amendment reduces state special revenue by \$11.1 and federal funds by \$7.9 million. General fund increases by a net of \$2.4 million over the biennium. Each specific change and the amount of the change is listed in the attached spreadsheet.

Amendment **not** adopted as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, D. Brown, R. Brown, Butcher, Everett, Glaser, Hawk, Heinert, Hendrick, Himmelberger, Jackson, L. Jones, W. Jones, Klock, Koopman, Lake, Lambert, Lange, MacLaren, Maedje, Malcolm, McGillvray, McKenney, McNutt, Mendenhall, Milburn, Morgan, Noennig, A. Olson, B. Olson, Peterson, Rice, Ripley, Roberts, Ross, Sales, Sinrud, Sonju, Stahl, Stoker, Taylor, Wagman, Waitschies, Ward, Warden, Wells, Witt.

Total 50

Noes: Becker, Bergren, Bixby, Branae, Buzzas, Caferro, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell,

HOUSE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2005

Driscoll, Eaton, Facey, Franklin, Furey, Gallik, Galvin-Halcro, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Henry, Hiner, Jacobson, Jayne, Jent, Jopek, Juneau, Kaufmann, Keane, Lenhart, Lindeen, McAlpin, Musgrove, Noonan, Parker, Raser, Sesso, Small-Eastman, Villa, Wanzenried, Wilson, Windham, Windy Boy, Wiseman, Mr. Speaker.

Total 50

Voted Absentee: Lange, Aye.

Excused: None.

Total 0

Absent or not voting: None.

Total 0

HR 2 - Representative Facey moved **HR 2**, second reading copy, be further amended as follows:

1. Page B-1, line 4.

Strike: "183,934,559 196,348,153" [federal special fund FY06 and FY07]

Insert: "183,809,559 196,223,153" [federal special fund FY06 and FY07]

2. Page B-1.

Following: line 18

Insert: "h. Adult Basic Education (Restricted) 125,000 125,000" [federal special fund FY06 and FY07]

3. Page B-7.

Following: line 24

Insert: "Funding in Adult Basic Education supports provision of adult basic education services designed to meet the specific needs of TANF participants. Priority for funding must be given to the geographic areas that have the highest percentage of their population enrolled in the TANF program."

Amendment adopted as follows:

Ayes: Andersen, Arntzen, Balyeat, Becker, Bergren, Bixby, Branae, D. Brown, R. Brown, Butcher, Buzzas, Caferro, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Facey, Franklin, Furey, Gallik, Galvin-Halcro, Glaser, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Hawk, Heinert, Hendrick, Henry, Himmelberger, Hiner, Jacobson, Jayne, Jent, W. Jones, Jopek, Juneau, Kaufmann, Keane, Klock, Lake, Lambert, Lange, Lenhart, Lindeen, MacLaren, Maedje, Malcolm, McAlpin, McKenney, McNutt, Morgan, Musgrove, Noennig, Noonan, A. Olson, B. Olson, Parker, Peterson, Raser, Ripley, Roberts, Ross, Sesso, Small-Eastman, Stoker, Taylor, Villa, Waitschies, Wanzenried, Ward, Wilson, Windham, Windy Boy, Wiseman, Mr. Speaker.

Total 83

Noes: Barrett, Everett, Jackson, Koopman, McGillvray, Mendenhall, Milburn, Rice, Sales, Sinrud, Sonju, Stahl, Wagman, Warden, Wells, Witt.

Total 16

Voted Absentee: Lange, Aye.

Excused: None.

Total 0

Absent or not voting: L. Jones.

Total 1

Dem. Floor Leader Parker moved the committee rise, report progress, and beg leave to sit again. Motion carried with a voice vote.

Dem. Floor Leader Parker announced the Democrats will caucus.

Chairman Himmelberger stated the House will stand at ease until 5:10 p.m.

HOUSE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2005

HB 2 - Representative Morgan moved **HB 2**, second reading copy, be further amended as follows:

1. Page B-2, line 9.

Strike: line 9 in its entirety

Insert: "1,328,489 1,331,310" [general fund FY06/FY07]
 "19,191,224 26,491,473" [state special revenue FY06/FY07]
 "2,624,543 17,142,060" [federal funds FY06/FY07]

Explanation: This amendment removes \$100,000 each year from the Directors Office, the amount needed to support the second deputy director position. The funds removed by fiscal year are:

		FY 06	FY 07
General Fund		37,147	37,146
State Special Revenue	6,281	6,282	
Federal		56,572	56,572

Amendment adopted as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, Branae, D. Brown, R. Brown, Butcher, Callahan, Dickenson, Driscoll, Everett, Facey, Franklin, Furey, Gallik, Glaser, Golie, Hamilton, Hawk, Heinert, Hendrick, Henry, Himmelberger, Hiner, Jackson, Jacobson, Jent, L. Jones, W. Jones, Keane, Klock, Koopman, Lake, Lambert, Lange, Lindeen, MacLaren, Maedje, Malcolm, McGillvray, McKenney, McNutt, Mendenhall, Milburn, Morgan, Musgrove, Noennig, Noonan, A. Olson, B. Olson, Peterson, Ripley, Roberts, Ross, Sales, Sesso, Sinrud, Sonju, Stahl, Stoker, Taylor, Villa, Wagman, Waitschies, Ward, Warden, Wells, Windham, Windy Boy, Witt.
Total 71

Noes: Becker, Bergren, Bixby, Buzzas, Caferro, Campbell, Clark, Cohenour, Dowell, Eaton, Galvin-Halcro, Grinde, Groesbeck, Gutsche, Harris, Jayne, Jopek, Juneau, Kaufmann, Lenhart, McAlpin, Parker, Raser, Small-Eastman, Wanzenried, Wilson, Wiseman, Mr. Speaker.
Total 28

Voted Absentee: Lange, Aye.

Excused: None.
Total 0

Absent or not voting: Rice.
Total 1

HB 2 - Representative Morgan moved **HB 2**, second reading copy, be further amended as follows:

1. Page B-5.

Following: line 14

Insert: "f. Study of Veterans' Long-Term Health Care Needs (Restricted/Biennial/OTO)
50,000" [state special revenue from cigarette taxes]

2. Page B-13, line 16.

Following: line 16

Insert: "Funding in Study of Veterans' Long-Term Health Care Needs may be used by the department only to perform an analysis related to veterans' long-term care needs. The funds must be used to determine demographics of the Montana veterans' population, including the number and age of veterans in each county and the type of long-term care needs of the population. The long-term care assessment for veterans must include evaluation of the need for nursing home, domiciliary, and Alzheimer services as well as various types of community and in-home care that are needed. The study must also evaluate existing veterans' home services and configuration of those services with respect to the needs identified. The department shall provide the results of the study to the legislative finance committee by September 1, 2006."

Explanation: This amendment appropriates \$50,000 of state special cigarette tax revenue allocated to veterans' services for a study of long-term care needs of Montana veterans' and requires that the Legislative Finance Committee receive the study results in time to be included in legislative staff analysis of the executive budget request.

HOUSE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2005

Amendment adopted as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, Becker, D. Brown, Butcher, Caferro, Dickenson, Dowell, Driscoll, Everett, Facey, Furey, Gallik, Glaser, Golie, Grinde, Groesbeck, Hamilton, Harris, Heinert, Hendrick, Himmelberger, Jackson, Jacobson, Jayne, Jent, L. Jones, W. Jones, Jopek, Keane, Klock, Lake, Lambert, Lange, Lenhart, MacLaren, Maedje, Malcolm, McAlpin, McKenney, McNutt, Milburn, Morgan, Noennig, Noonan, A. Olson, B. Olson, Peterson, Raser, Rice, Ripley, Roberts, Ross, Sesso, Sonju, Stahl, Stoker, Taylor, Villa, Wagman, Wanzenried, Ward, Warden, Wells, Wilson, Windy Boy, Wiseman, Witt, Mr. Speaker.
Total 71

Noes: Bergren, Bixby, Branae, R. Brown, Buzzas, Callahan, Campbell, Clark, Cohenour, Eaton, Franklin, Galvin-Halcro, Gutsche, Hawk, Henry, Hiner, Juneau, Kaufmann, Koopman, Lindeen, McGillvray, Mendenhall, Musgrove, Parker, Sales, Sinrud, Small-Eastman, Waitschies, Windham.
Total 29

Voted Absentee: Lange, Aye.

Excused: None.
Total 0

Absent or not voting: None.
Total 0

HB 2 - Representative McNutt moved **HB 2**, second reading copy, be further amended as follows:

1. Page B-3, line 14.

Strike: "1,256,796" "1,257,348"[state special fund FY 06 & FY 07]

Insert: "1,045,546" "1,046,098"[state special fund FY 06 & FY 07]

Amendment adopted as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, D. Brown, R. Brown, Butcher, Campbell, Clark, Cohenour, Everett, Facey, Gallik, Glaser, Golie, Groesbeck, Hawk, Heinert, Hendrick, Himmelberger, Jackson, Jent, L. Jones, W. Jones, Jopek, Keane, Klock, Koopman, Lake, Lange, Lenhart, MacLaren, Maedje, Malcolm, McGillvray, McKenney, McNutt, Mendenhall, Milburn, Musgrove, Noennig, A. Olson, B. Olson, Peterson, Rice, Ripley, Roberts, Ross, Sales, Sesso, Sinrud, Sonju, Stahl, Stoker, Taylor, Wagman, Waitschies, Wanzenried, Ward, Warden, Wells, Windham, Windy Boy, Witt, Mr. Speaker.
Total 65

Noes: Becker, Bergren, Bixby, Branae, Buzzas, Caferro, Callahan, Dickenson, Dowell, Driscoll, Eaton, Franklin, Furey, Galvin-Halcro, Grinde, Gutsche, Hamilton, Harris, Henry, Hiner, Jacobson, Jayne, Juneau, Kaufmann, Lambert, Lindeen, McAlpin, Morgan, Noonan, Parker, Raser, Small-Eastman, Villa, Wilson, Wiseman.
Total 35

Voted Absentee: Lange, Aye.

Excused: None.
Total 0

Absent or not voting: None.
Total 0

HB 2 - Representative Taylor moved **HB 2**, second reading copy, be further amended as follows:

1. Page B-2, line 12.

Following: "Revenue"

Strike: "Auditors"

Insert: "Auditor"

HOUSE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2005

2. Page B-2, line 13.

Strike: "1,120,000"

[general fund FY06]

Insert: "115,638"

[general fund FY06]

3. Page B-6, line 19.

Following: "Revenue"

Strike: "Auditors"

Insert: "Auditor"

4. Page B-8, line 15.

Following: "Revenue"

Strike: "Auditors"

Insert: "Auditor"

Following: "tax"

Strike: "auditors"

Insert: "audit staff"

Explanation: This amendment reduces the funding for new audit FTE in the Department of Revenue. The appropriation for the FTE is included in the Department of Public Health and Human Services with the direction that the appropriation be transferred to DPHHS. This amendment reduces the general fund appropriated by \$1,006,342 and supports 1.00 new FTE instead of 6.00 new FTE.

Amendment **not** adopted as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, D. Brown, R. Brown, Butcher, Everett, Glaser, Hawk, Heinert, Hendrick, Himmelberger, Jackson, L. Jones, W. Jones, Klock, Koopman, Lake, Lambert, Lange, MacLaren, Maedje, Malcolm, McGillvray, McKenney, McNutt, Mendenhall, Milburn, Morgan, Noennig, A. Olson, B. Olson, Peterson, Rice, Ripley, Roberts, Ross, Sales, Sinrud, Sonju, Stahl, Stoker, Taylor, Wagman, Waitschies, Ward, Warden, Wells, Witt.
Total 50

Noes: Becker, Bergren, Bixby, Branae, Buzzas, Caferro, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Facey, Franklin, Furey, Gallik, Galvin-Halcro, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Henry, Hiner, Jacobson, Jayne, Jent, Jopek, Juneau, Kaufmann, Keane, Lenhart, Lindeen, McAlpin, Musgrove, Noonan, Parker, Raser, Sesso, Small-Eastman, Villa, Wanzenried, Wilson, Windham, Windy Boy, Wiseman, Mr. Speaker.
Total 50

Voted Absentee: Lange, Aye.

Excused: None.

Total 0

Absent or not voting: None.

Total 0

HB 2 - Representative Wagman moved **HB 2**, second reading copy, be further amended as follows:

1. Page B-2, line 9.

Strike: "19,197,505 26,497,755"

[state special fund FY06 and FY07]

Insert: "247,505

18,426,783"

[state special fund FY06 and FY07]

2. Page B-4, line 13.

Strike: "9,966,860

11,101,211"

[state special fund FY06 and FY07]

Insert: "7,922,945

11,027,072"

[state special fund FY06 and FY07]

Strike: "319,083,736

342,322,522"

[federal special fund FY06 and FY07]

Insert: "312,701,466

342,089,158"

[federal special fund FY06 and FY07]

HOUSE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2005

Amendment **not** adopted as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, D. Brown, R. Brown, Butcher, Everett, Glaser, Hawk, Heinert, Hendrick, Himmelberger, Jackson, L. Jones, W. Jones, Klock, Koopman, Lake, Lambert, Lange, MacLaren, Maedje, Malcolm, McGillvray, McKenney, McNutt, Mendenhall, Milburn, Morgan, Noennig, A. Olson, B. Olson, Peterson, Rice, Ripley, Roberts, Ross, Sales, Sinrud, Sonju, Stahl, Stoker, Taylor, Wagman, Waitschies, Warden, Wells, Witt.

Total 49

Noes: Becker, Bergren, Bixby, Branae, Buzzas, Caferro, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Facey, Franklin, Furey, Gallik, Galvin-Halcro, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Henry, Hiner, Jacobson, Jayne, Jent, Jopek, Juneau, Kaufmann, Keane, Lenhart, Lindeen, McAlpin, Musgrove, Noonan, Parker, Raser, Sesso, Small-Eastman, Villa, Wanzenried, Ward, Wilson, Windham, Windy Boy, Wiseman, Mr. Speaker.

Total 51

Voted Absentee: Lange, Aye.

Excused: None.

Total 0

Absent or not voting: None.

Total 0

HB 2 - Representative Morgan moved **HB 2**, second reading copy, be further amended as follows:

1. Page B-5, lines 23 and 24.

Strike: lines 23 through 24 in their entirety

Renumber: subsequent subsection

2. Page B-6, line 21.

Following: "Increase,"

Insert: "and"

Following: "Drugs"

Strike: ", and Substance Abuse Treatment"

3. Page B-14, lines 5 through 8.

Strike: lines 5 through 8 in their entirety

Explanation: This amendment removes a one time only appropriation of \$1 million general fund to support chemical dependency addiction and treatment, with a focus on methamphetamine addictions.

Amendment adopted as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, D. Brown, R. Brown, Butcher, Everett, Glaser, Hawk, Heinert, Hendrick, Himmelberger, Jackson, L. Jones, W. Jones, Klock, Koopman, Lake, Lambert, Lange, MacLaren, Maedje, Malcolm, McGillvray, McKenney, McNutt, Mendenhall, Milburn, Morgan, Noennig, A. Olson, B. Olson, Peterson, Rice, Ripley, Roberts, Ross, Sales, Sinrud, Sonju, Stahl, Stoker, Taylor, Wagman, Waitschies, Ward, Warden, Wells, Windham, Witt, Mr. Speaker.

Total 52

Noes: Becker, Bergren, Bixby, Branae, Buzzas, Caferro, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Facey, Franklin, Furey, Gallik, Galvin-Halcro, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Henry, Hiner, Jacobson, Jayne, Jent, Jopek, Juneau, Kaufmann, Keane, Lenhart, Lindeen, McAlpin, Musgrove, Noonan, Parker, Raser, Sesso, Small-Eastman, Villa, Wanzenried, Wilson, Windy Boy, Wiseman.

Total 48

Voted Absentee: Lange, Aye.

HOUSE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2005

Excused: None.
Total 0

Absent or not voting: None.
Total 0

HB 2 - Representative Morgan moved **HB 2**, second reading copy, be further amended as follows:

1. Page B-3, lines 3 and line 4.
Strike: lines 3 through 4 in their entirety
Renumber: subsequent subsection

Explanation: This amendment eliminates the pilot program for Tribal peer counseling for tobacco/smoking prevention and control. The amendment eliminates \$60,000 general fund over the biennium.

Amendment adopted as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, D. Brown, R. Brown, Butcher, Everett, Glaser, Hawk, Heinert, Hendrick, Himmelberger, Jackson, L. Jones, W. Jones, Klock, Koopman, Lake, Lambert, Lange, MacLaren, Maedje, Malcolm, McGillvray, McKenney, McNutt, Mendenhall, Milburn, Morgan, Noennig, A. Olson, B. Olson, Peterson, Rice, Ripley, Roberts, Ross, Sales, Sinrud, Sonju, Stahl, Stoker, Taylor, Wagman, Waitschies, Ward, Warden, Wells, Windham, Witt, Mr. Speaker.
Total 52

Noes: Becker, Bergren, Bixby, Branae, Buzzas, Caferro, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Facey, Franklin, Furey, Gallik, Galvin-Halcro, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Henry, Hiner, Jacobson, Jayne, Jent, Jopek, Juneau, Kaufmann, Keane, Lenhart, Lindeen, McAlpin, Musgrove, Noonan, Parker, Raser, Sesso, Small-Eastman, Villa, Wanzenried, Wilson, Windy Boy, Wiseman.
Total 48

Voted Absentee: Lange, Aye.

Excused: None.
Total 0

Absent or not voting: None.
Total 0

Chairman Himmelberger stated HB 2 Section B is closed.

Dem. Floor Leader Parker moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. House resumed. Mr. Speaker in the chair. Chairman Himmelberger moved the Committee of the Whole report be adopted. Report adopted as follows:

Ayes: Arntzen, Balyeat, Becker, Bergren, Branae, D. Brown, R. Brown, Butcher, Buzzas, Caferro, Callahan, Clark, Dickenson, Dowell, Driscoll, Eaton, Facey, Franklin, Furey, Gallik, Glaser, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Hendrick, Henry, Hiner, Jackson, Jent, L. Jones, W. Jones, Juneau, Kaufmann, Keane, Lake, Lambert, Lenhart, Lindeen, McAlpin, McGillvray, McKenney, McNutt, Milburn, Musgrove, Noennig, Noonan, A. Olson, B. Olson, Parker, Peterson, Raser, Ripley, Ross, Sesso, Sinrud, Small-Eastman, Sonju, Stahl, Stoker, Waitschies, Ward, Wilson, Windham, Windy Boy, Wiseman, Witt, Mr. Speaker.
Total 70

Noes: Andersen, Barrett, Bixby, Cohenour, Everett, Galvin-Halcro, Hawk, Heinert, Jacobson, Jayne, Jopek, Klock, Koopman, MacLaren, Maedje, Malcolm, Mendenhall, Morgan, Rice, Roberts, Sales, Taylor, Villa, Wagman, Warden, Wells.
Total 26

Excused: Lange.
Total 1

HOUSE JOURNAL
FIFTY-NINTH LEGISLATIVE DAY - MARCH 17, 2005

Absent or not voting: Campbell, Himmelberger, Wanzenried.
Total 3

MOTIONS

Dem. Floor Leader Parker moved to re-refer SB 481 from the Business and Labor Committee to the Human Services Committee. Without objection, so ordered.

Dem. Floor Leader Parker moved to re-refer SB 497 from the Business and Labor Committee to the Federal Relations, Energy, and Transportation Committee. Without objection, so ordered.

Dem. Floor Leader Parker moved to re-refer SJR 3 from the Business and Labor Committee to the Fish, Wildlife, and Parks Committee. Without objection, so ordered.

Dem. Floor Leader Parker moved to return HB 367 to the Senate for their reconsideration. Motion carried as follows:

Ayes: Andersen, Arntzen, Becker, Bergren, Bixby, Branae, D. Brown, R. Brown, Butcher, Buzzas, Caferro, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Facey, Franklin, Furey, Gallik, Galvin-Halcro, Glaser, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Hawk, Heinert, Henry, Himmelberger, Hiner, Jackson, Jacobson, Jayne, Jent, L. Jones, W. Jones, Jopek, Juneau, Kaufmann, Keane, Klock, Lake, Lambert, Lenhart, Lindeen, MacLaren, Maedje, McAlpin, McKenney, McNutt, Milburn, Musgrove, Noennig, Noonan, A. Olson, B. Olson, Parker, Peterson, Raser, Rice, Ross, Sesso, Small-Eastman, Sonju, Stahl, Stoker, Taylor, Villa, Wagman, Wanzenried, Ward, Warden, Wilson, Windham, Windy Boy, Wiseman, Mr. Speaker.
Total 83

Noes: Balyeat, Barrett, Everett, Koopman, Malcolm, Mendenhall, Morgan, Ripley, Roberts, Sales, Sinrud, Waitschies, Wells, Witt.
Total 14

Excused: Lange.
Total 1

Absent or not voting: Hendrick, McGillvray.
Total 2

SPECIAL ORDERS OF THE DAY

Consent Calendar: HB 327, HB 541. There being no questions, these bills will be placed on 3rd Reading.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Dem. Floor Leader Parker moved that the House adjourn until 8:00 a.m., Friday, March 18, 2005. Motion carried.

House adjourned at 5:55 p.m.

MARILYN MILLER
Chief Clerk of the House

GARY MATTHEWS
Speaker of the House